



City of Westminster

# Cabinet Member Report

**Meeting or Decision Maker:** Cabinet Member for Public Protection and Licensing

**Date:** Monday 30<sup>th</sup> November 2020

**Classification:** General Release

**Title:** Review of the Councils Revised Statement of Licensing Policy under the Licensing Act 2003.

**Wards Affected:** All Wards

**City for All:** Vibrant Communities

**Key Decision:** State if report involves a Key Decision and whether an entry has been included for 28 days on the list of forthcoming decisions

**Financial Summary:** There are no financial impacts associated with this report

**Report of:** Executive Director for Innovation and Change and Executive Director for Environment and City Management

## 1. Executive Summary

- 1.1 The Licensing Authority began its statutory consultation on its proposed revisions to the Statement of Licensing Policy on the 12<sup>th</sup> October 2020. The consultation ran for a period of 5 weeks ending on the 15<sup>th</sup> November. The Licensing Authority has received 170 responses to date from a range of different stakeholders.
- 1.2. On the 25<sup>th</sup> November 2020 the Licensing Committee considered a report summarising the responses to the Licensing Authority's proposed revisions to

the Statement of Licensing Policy<sup>1</sup>. The Licensing Committee considered the responses received during the consultation. The Committee provided a steer to the Cabinet Member for Public Protection and Licensing on how the proposed revisions should be amended considering the responses and these are explained in this report.

- 1.3 The majority of the Licensing Authority's proposals are supported by the consultation respondents. Following an assessment of those responses the officers have set out the Licensing Authority's approach to each of the points raised by the respondents. The responses received during the consultation period along with the Licensing Authority's position is set out in Appendix 1 to this report. A summary of the main points that were raised during the consultation process and the changes that officers have made to the revised Statement of Licensing Policy are set out within this report.
- 1.4 The Cabinet Member for Public Protection and Licensing is asked to review the final revisions to the Statement of Licensing Policy and refer it to Full Council for review and if acceptable, for approval and adoption.

## **2. Recommendations**

- 2.1 The Cabinet Member for Public Protection and Licensing is asked to consider the revised Statement of Licensing Policy as attached at Appendix 2 and recommend to Full Council that the Policy is approved and adopted in accordance with section 5 of the Licensing Act 2003.

## **3. Reasons for Decision**

- 3.1 The Council has published its five-year Statement of Licensing Policy (SLP) with respect to the exercise of its licensing functions. The current SLP was effective from the 7<sup>th</sup> January 2016 and the end of the current policy period will be on the 6<sup>th</sup> January 2021. The Council, as the Licensing Authority is required to keep that policy under review and make such revisions to it as it considers appropriate. Before revising its SLP the Licensing Authority must consult on those proposed revisions.
- 3.2 The Licensing Authority has concluded its consultation on its proposed revisions to the SLP and is now required to present it to Full Council for review so that the revised SLP can be published before the current SLP expires on the 6<sup>th</sup> January 2021. The Licensing Act 2003 requires that the SLP is reviewed and approved by Full Council and therefore if the Cabinet Member considers the revisions to the SLP acceptable the Cabinet Member is asked to recommend the revised SLP to Full Council for approval.

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<sup>1</sup> [Summary of Consultation responses to the Proposed Revision of the Councils Statement of Licensing Policy Report – Licensing Committee Hearing 25<sup>th</sup> November 2020.](#)

## 4. Background

- 3.1 The Licensing Act 2003 (the Act) requires that each Licensing Authority must for every five-year period determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy before the beginning of the period. Before the Licensing Authority can determine its policy for a five-year period it must consult those specified within the Act.
- 3.2 The current Statement of Licensing Policy (SLP) five-year term will end on the 6<sup>th</sup> January 2021. The Licensing Authority has undertaken a review of this policy and proposed a number of revisions. Some of these revisions are as a result of the findings of the Cumulative Impact Assessment (CIA), which provides evidence to support the inclusion of an amended cumulative impact policy within the SLP.
- 3.3 In light of the findings from the CIA and the potential impact of COVID-19 the Licensing Authority has taken a pragmatic approach in considering the CIA findings and the proposed revisions to the SLP. As a direct result of the ongoing uncertainty, impact on licensed premises and the reduction in visitor numbers, the Licensing Authority has decided that expanding the current West End Cumulative Impact Area and implementing further restrictions on other premises uses within that area would not be appropriate at this time. Due to the current COVID-19 impact and restrictions on the hospitality sector the Licensing Authority considers that this approach is consistent with its duty to promote the licensing objectives.
- 3.4 The full proposed list of revisions of the SLP consultation document is attached at Appendix 3 to this report. In summary the proposed revisions are:
- (a) A statement on the Licensing Authority's expectation on licensed premises' approach to inclusion in the evening and night-time economy
  - (b) A summary of the 2020 Cumulative Impact Assessment
  - (c) A revised policy framework for the Licensing Objectives Policies CD1, PS1, and PN1
  - (d) A revised Protection of Children from Harm Policy (CH1) framework and the addition of safeguarding as a key consideration within that policy.
  - (e) Retention of the existing West End Cumulative Impact Zone boundary, except for the North East area beyond Covent Garden, and revision of the policy framework for the Cumulative Impact Policy – CIP1
  - (f) The removal of the Cumulative Impact Zones for Edgware Road and Queensway/Bayswater
  - (g) A revised Core Hours Policy - HRS1 framework based on premises uses rather than licensable activities
  - (h) A new Special Consideration Zone Policy- SCZ1
  - (i) A revised policy framework for premises use policies and updates to policy narrative where necessary

- (j) Removal of qualifying clubs from the theatres, cinemas and other performance venues policy, and expanding the policy to include a wider variety of cultural venues and live sporting venues
- (k) Creation of a standalone policy for Qualifying Clubs
- (j) Minor updates and changes across the statement to references to law, guidance or Council policies/strategies.

#### **4. Consultation**

4.1 Before the Licensing Authority can formally adopt and publish a revised SLP it is required under section 5 of the Act to consult the following:

- (a) Police,
- (b) Fire Authority,
- (c) Public Health,
- (d) any persons who represent personal licence holders,
- (e) any persons who represent premises licence or club premises certificate holders,
- (f) any persons who represent businesses, and,
- (g) any persons who represent residents.

4.2 The Licensing Authority intended to publish its CIA in accordance with Section 5A of the Act. On the 25<sup>th</sup> November 2020 the Licensing Committee considered a report relating to the consultation responses associated with Licensing Authority's intention to publish the CIA in accordance with the Act<sup>2</sup>. The Licensing Committee approved the publication of the CIA at the hearing. The consultation for both the CIA and revision to the SLP were conducted together as the statutory consultees were the same.

4.3 On the 12<sup>th</sup> October 2020 the Licensing Authority began its consultation on proposed revisions to its SLP in accordance with the Act. In addition to contacting the statutory consultees referred to in 4.1(a) to (g) above this consultation was widely promoted to the general public through social media and dedicated articles in council newsletters. The consultation ran for a period of five weeks and ended on the 15<sup>th</sup> November 2020. Due to the impact of the second government-imposed national restrictions some respondents contacted the Licensing Authority for some additional time to respond to this consultation. The Licensing Authority agreed to that request and has considered responses that were received after the 15<sup>th</sup> November.

4.4 In addition to the consultation documentation that were made available on the Councils website (see Appendix 1) two virtual question and answer sessions took place on the 19<sup>th</sup> and 26<sup>th</sup> October. These sessions were provided to enable residents, businesses and interested parties to attend and put questions to both officers and the Cabinet Member for Public Protection and Licensing/Licensing Committee Chair. Both events were well attended and provided an opportunity to explain and discuss the proposals in greater detail.

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<sup>2</sup> [The 2020 Cumulative Impact Assessment – Consultation Responses and Decision to Publish report - Licensing Committee Hearing 25<sup>th</sup> November 2020.](#)

Officers also met with some key stakeholders who had requested a meeting to discuss the proposals and how they relate to the area in which they are most interested.

- 4.5 The Licensing Authority provided an online survey throughout the consultation period for statutory consultees, residents and other interested parties. This survey set out the questions relating to the proposed revisions to the SLP along with some questions to identify in what capacity they were completing the survey, e.g. resident or business. In addition to the survey the Licensing Authority also received responses via email. These email responses have been combined with the submissions made via the online survey.

## **5. Summary of Consultation Responses**

- 5.1 The Licensing Authority has received 170 responses to date to this consultation. Most responses were received in the last 4 days of the consultation period. The respondents to this consultation have either self-identified as being within a specific demographic or officers have assigned them based on their response.
- 5.2 Respondents provided their responses either via the online survey or in writing via email. The respondents that completed the online survey were able to provide their views to each of the consultation questions posed on the proposed revisions.
- 5.3 The consultation on the proposed revisions of the Statement of Licensing Policy set a number of questions relating to these proposals (see Appendix 2 for the list of consultation questions). Some of the questions were whether the respondent agreed or disagreed (yes or no) with the proposals. We also asked questions on their views on the proposals or whether they had any further comments to make relating to either the proposals, the wider revision of the Statement of Licensing Policy or anything else relating to the Licensing Authority's approach to its licensing function under the Act. For these questions the respondent could provide their views and comments in writing. As stated above, officers have reviewed the responses that have been received and where the respondent has not specifically stated the revision that they are commenting on officers have assigned their comments, based on the content to the relevant consultation proposals.
- 5.4 The following sections of this report set out the specific revision proposals, the number of responses relating to that specific proposal, the demographic of the respondent, the number of respondents by demographic that approve/disapprove with the proposal and a summary of the views and comments provided by the respondents, if any.
- 5.6 Officers have now fully reviewed every consultation submission. Following discussions with the Cabinet Member and after receiving feedback from the Licensing Committee on the 25<sup>th</sup> November 2020 officers have set out the Licensing Authority's approach and response to each of the consultation submissions (see Appendix 1). The summary of responses below does not

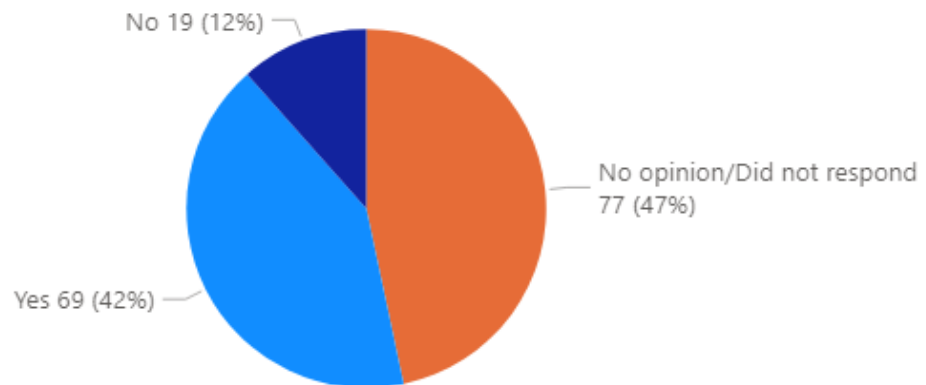
include all of the views expressed. However, they capture the majority of the significant comments that were submitted. The position of the Licensing Authority in respect of the proposed revisions, in light of the consultation responses is set out below the summary of responses for each of the proposals.

## 6. Implementing a Cumulative Impact Policy

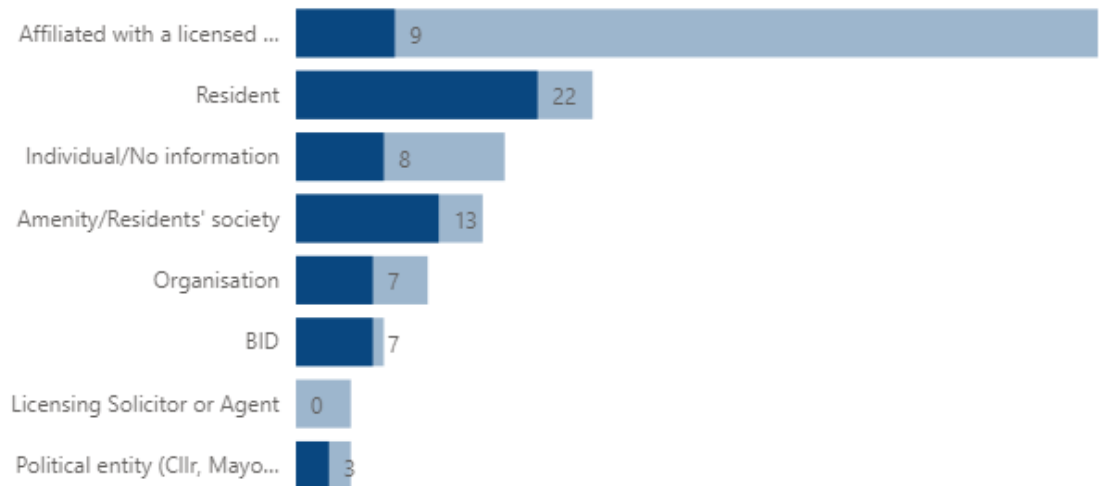
6.1. The Licensing Authority intends to retain the existing West End Cumulative Impact Zone boundary, except for the North East Area beyond Covent Garden, and to revise the policy framework for the Cumulative Impact Policy – CIP1. The authority also intends to remove the Cumulative Impact Zones for Edgware Road and Queensway/Bayswater. As part of the consultation, stakeholders were asked for their views on whether the authority should implement a Cumulative Impact Policy and to provide further feedback.

### Number of Responses and Demographics.

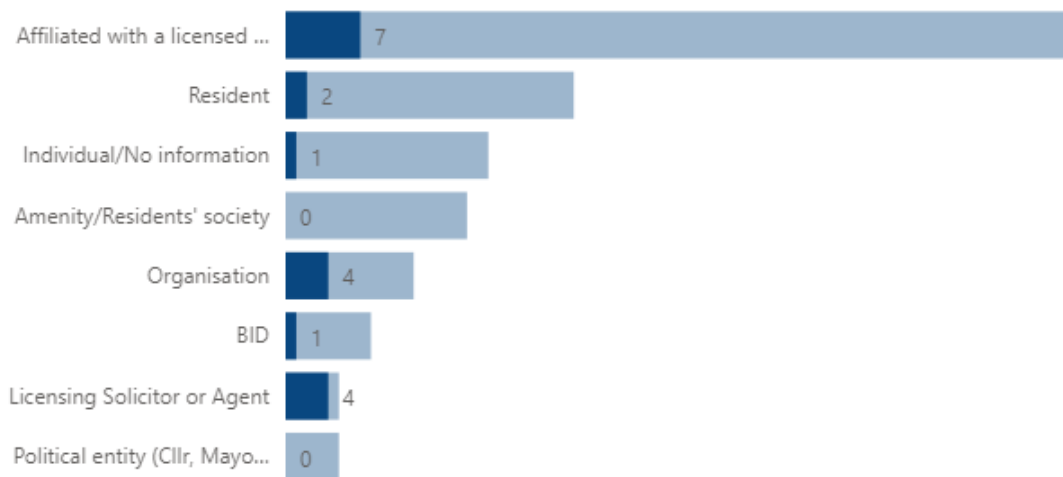
6.2. The Licensing Authority received 69 responses that supported this proposal, 19 who opposed it and 77 who had no opinion/did not respond.



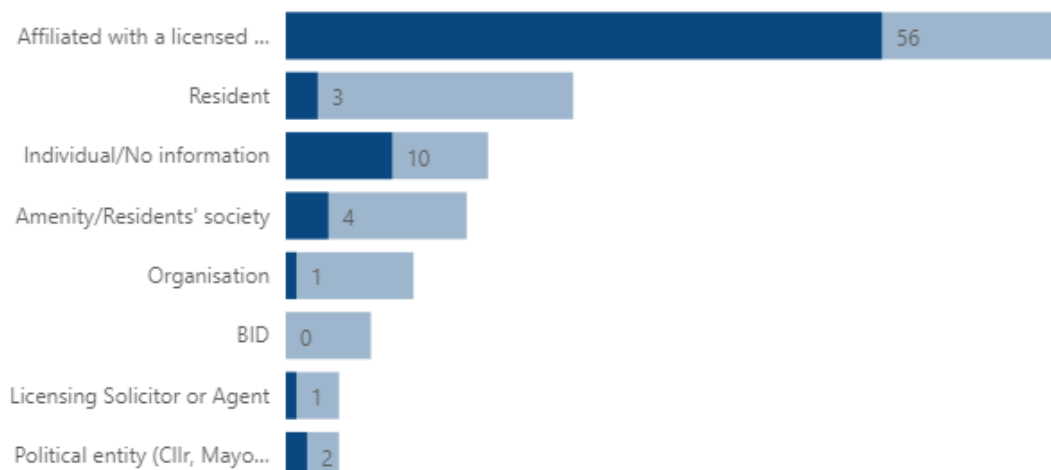
6.3 The graphs below show the number of respondents by demographic who either supported the proposal, were opposed to it or had no opinion/did not respond.



*The number of respondents by demographic who did agree with this proposal.*



*The number of respondents by demographic who did not agree with this proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this part of the proposal.*

### Summary of responses

#### 6.4. Comments on the proposal to implement a Cumulative Impact Policy

- The New West End Company (NWECC), the Greater London Authority (GLA), and the Safer Business Partnership have welcomed the flexibilities offered in the draft Licensing Policy. However, NWECC maintains that the Cumulative Impact Policy does not go far enough to support the West End's post-COVID recovery as an international centre for tourism and evening and night-time culture. More specifically, the new policy will not support regeneration of Oxford St and revitalisation of various economic sectors. Responses from businesses were similar
- The Crown Estate pointed to the lack of granularity and place-specific nuance in the Cumulative Impact Assessment, and that 'problematic incidents that have been highlighted as associated with licensed premises near to the Estate can be attributed to dispersal flows as opposed to being directly generated from venues within the estate. They have also called for the boundary to the Cumulative Impact Zone to be amended around Regent Street to Piccadilly.
- Mixed views from residents – most are overwhelmingly in support of a CIP and wish to see it enforced more aggressively in sub-committee hearings.
- One respondent called for an end to the licensing of sexual entertainment venues (SEVs). They expressed that SEVs are linked to sexual harassment and assault of women and has argued that most venues are running covert brothels.



## 6R - Licensing Authority Response and Action:

The Licensing Authority intends to continue with its proposal to include a Cumulative Impact Policy within the revised Statement of Licensing Policy. The Cumulative Impact Policy has been revised to take into account the 2020 Cumulative Impact Assessment findings and the changes to the areas and boundaries for the Cumulative Impact Zone.

The revised Cumulative Impact Policy is contained in the Revised Statement of Licensing Policy under the Spatial Policies at section D.

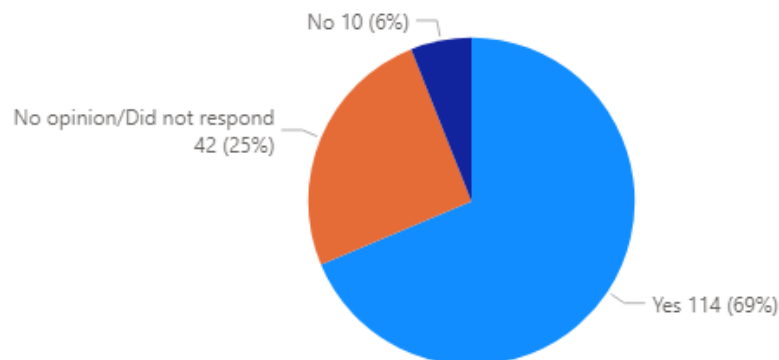
Note: It is intended to review the Cumulative Impact Assessment and Associated Cumulative Impact Policy in the next 1 to 3 years and the Licensing Authority will engage with some of the key stakeholders who had specific points associated with this in 2021.

## 7. New statement on inclusion in the evening and night-time economy

- 7.1 The Licensing Authority intends to create a new section to replace paragraph 1.15 of the current policy, which refers to the Equality Act 2010 (2010 Act). This new section will set out the authority's approach to fulfilling its duties under the 2010 Act. We want to promote and embrace inclusion in Westminster's evening and night-time economy.
- 7.2 We intend to set out the authority's expectations on licensed businesses to meet the requirements of the legislation, to implement best practice, to implement inclusivity and diversity training focused at door staff and other customer facing personnel; and to consider how the design and layout of a premises could further promote inclusion, especially for those with disabilities. This will not be a specific policy.

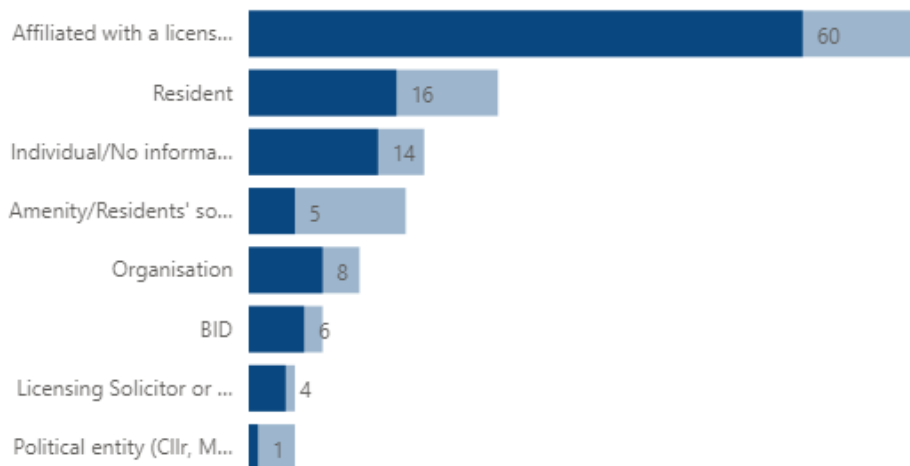
### Number of responses and Demographics

Q4. The Licensing Authority aims to include its expectation that licensed premises, as...

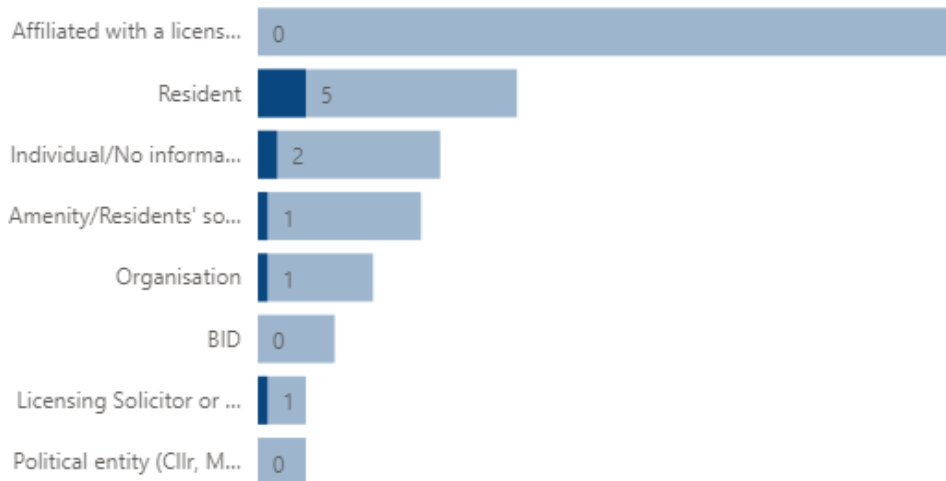


7.3 The Licensing Authority received 114 responses in favour of this proposal, 10 opposed and 42 who have no opinion/did not respond.

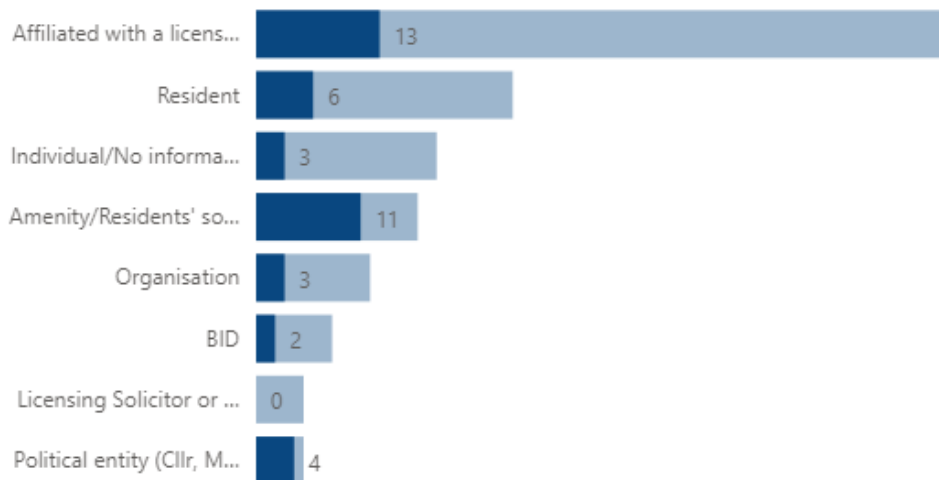
7.4 The graphs below show the number of respondents by demographic who either supported the proposal, were opposed to it or had no opinion/did not respond.



*The number of respondents by demographic who did agree with this proposal.*



*The number of respondents by demographic who did not agree with this proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this part of the proposal.*

### Summary of Responses

#### 7.5 Comments on the proposal included:

- There is a need to consider how venues can demonstrate commitment to inclusion and detail should be included about what inclusion means.
- Separate equality legislation exists and too much regulation is an unnecessary burden on businesses.
- Licensing policy cannot affect the attitudes of individuals.
- McDonald's suggested that by refusing to allow quick service in late night restaurants (the Licensing Authority is unwittingly being less inclusive because:
  - They offer high quality night-time working opportunities that are suitable for diverse groups such as young women
  - They are often the only non-alcohol venue open in the night-time economy providing somewhere for non-drinkers (e.g. certain religions) to socialise.
  - Their toilets are often the only disabled friendly public toilets on a high street
  - They provide a cost-effective night out for families and those on low incomes.

#### 7.6 There was one specific suggested amendment which was that the policy should allow for more licence flexibility where an applicant can demonstrate they provide a safe environment for customers with protected characteristics and granting the application would promote the licensing objectives.

## **7R - Licensing Authority Response and Action:**

The Licensing Authority intends to continue with its proposal to include a new section that sets out the authority's approach to fulfilling its duties under the Equality Act 2010. This section establishes the authority's expectations on licensed businesses to meet the requirements of the legislation, to implement best practice, to implement inclusivity and diversity training focused at door staff and other customer facing personnel; and to consider how the design and layout of a premises could further promote inclusion, especially for those with disabilities.

This will implement the recommendation (set out below) from the Scrutiny Commission Task Group report into inclusion in the night-time economy 2019.

*"The licensing authority should encourage applicants to provide information/details about how they will ensure and support inclusivity as part of the operating schedule attached to a premise's licence."*

This will not be a specific policy but a statement of expectation upon licensed businesses.

The section on Inclusion and Equality has been added to the revised Statement of Licensing Policy in Section B (Our Approach for Licensing in Westminster).

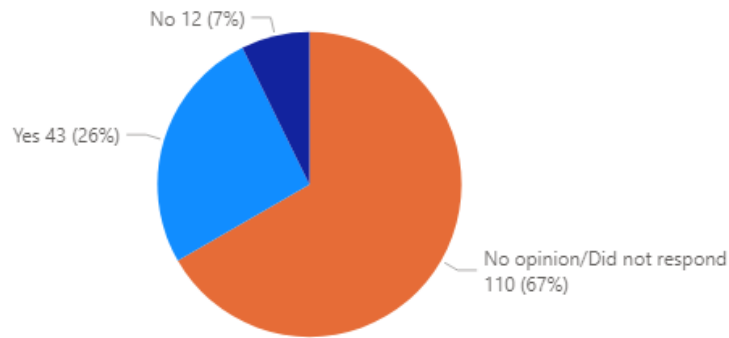
The Royal National Institute for the Blind (RNIB) provided a detailed response to this consultation relating to access for to licensed premises by people who are visually impaired. The Licensing Authority intends to develop Supplementary Licensing Document that sets out best practice and our expectations on businesses relating to disability access and inclusion. We will consult with the RNIB and other relevant bodies in the development of this document.

## **8. Summary of the 2020 Cumulative Impact Assessment**

- 8.1 As part of the consultation on the Statement of Licensing Policy the Licensing Authority consulted upon the proposal to include a summary of the CIA in the SLP which is required under Section 5(6E) of the Licensing Act 2003.

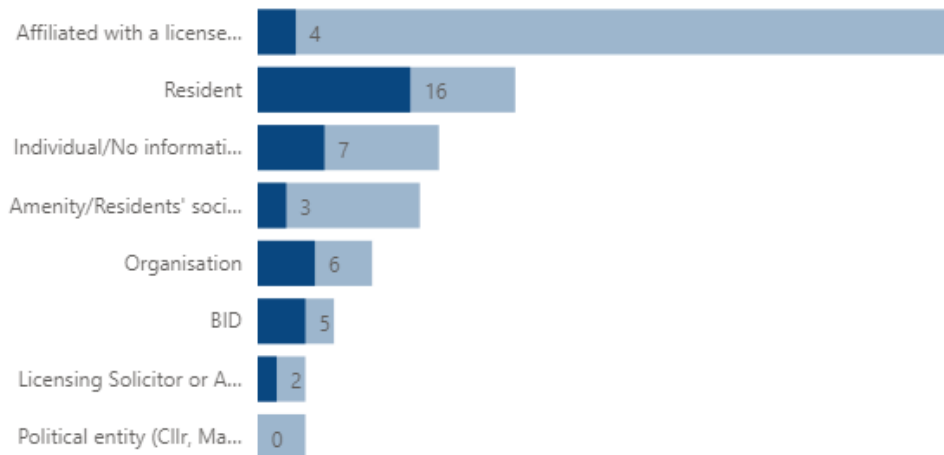
## Number of responses and Demographics

Q6. Do you agree with the proposal to include a summary of the 2020 Cumulative ...

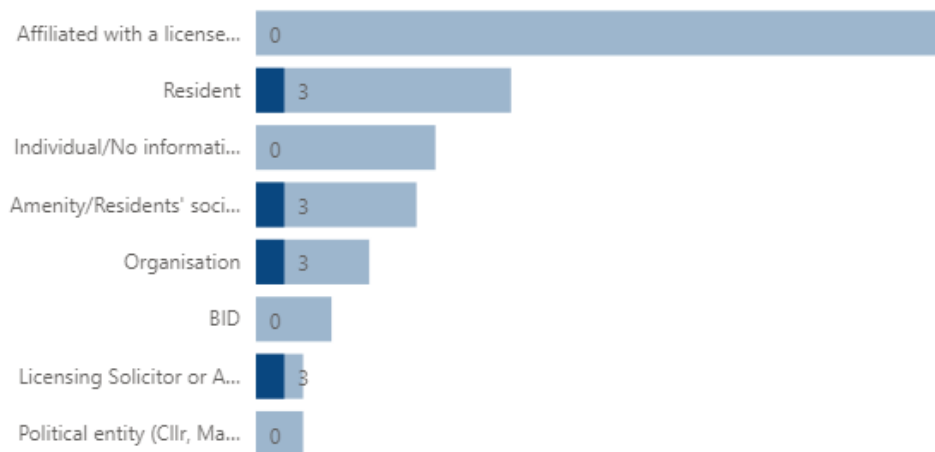


8.2 The Licensing Authority received 43 responses who agreed with the proposal, 12 who opposed it and 110 who had no opinion/did not respond.

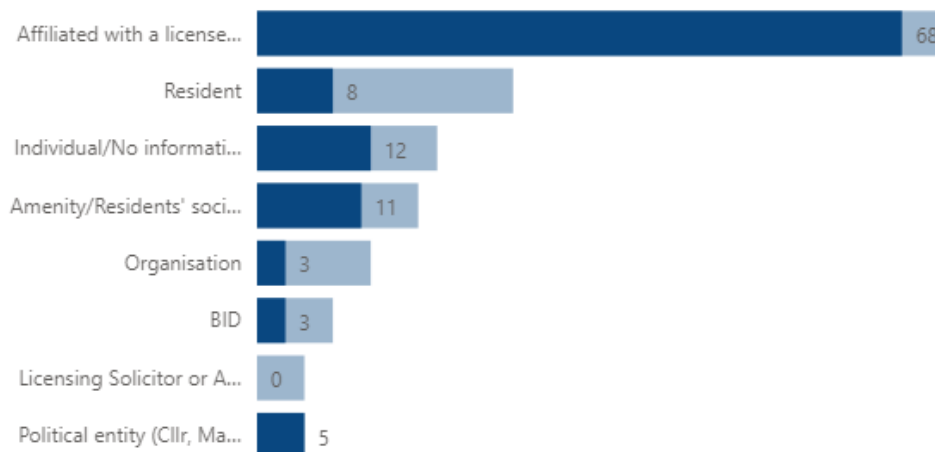
8.3 The graphs below show the number of respondents by demographic who either supported the proposal, were opposed to it or had no opinion/did not respond.



*The number of respondents by demographic who did agree with this proposal.*



*The number of respondents by demographic who did not agree with this proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this part of the proposal.*

## Summary of Responses

### 8.4 Comments on the proposal included:

- The impact of COVID-19 has made the findings of the CIA irrelevant and new data should be collected.
- The Soho Society commented that the proposal, if adopted, would lead to continued additional cumulative impact and that, due to planning changes, the cumulative impact zone is the only regulatory lever over increasing numbers of food and beverage venues.
- Some respondents such as Meard and Dean Street Residents' Association commented that the COVID-19 pandemic does not justify not introducing measures to tackle cumulative impact.

### **8R - Licensing Authority Response and Action:**

The Licensing Committee approved to publish the 2020 Cumulative Impact Assessment on the 25<sup>th</sup> November 2020. The Licenisng Authority has included the Summary of the Cumulative Impact Assessment findings. The inclusion of a summary of the Cumulative Impact Assessment will ensure that the Statement of Licensing Policy is compliant with Section 5(6D) and (6E) of the Licensing Act 2003.

The Cumulative Impact Assessment Summary is included in the revised Statement of Licensing Policy as Appendix 14.

## **9. Revised Policy Framework for the Licensing Objectives Policies (CD1, PS1, and PN1)**

- 9.1 The Licensing Authority has a duty to promote the Licensing Objectives under the Act. Applicants must demonstrate to the Authority that an application for a new licence or to vary an existing licence will not negatively impact these objectives. Applicants must seek to promote these objectives if the application were to be granted. The current wording of the Licensing Objectives policies is framed in a way that does not emphasise the requirement on applicants to promote the objectives. For example, the prevention of crime and disorder objective policy CD1 currently states:

*“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”*

- 9.2 The proposed new wording for the Prevention of Crime and Disorder (DC1), Public Safety (PS1) and Prevention of Public Nuisance (PN1) will start with:

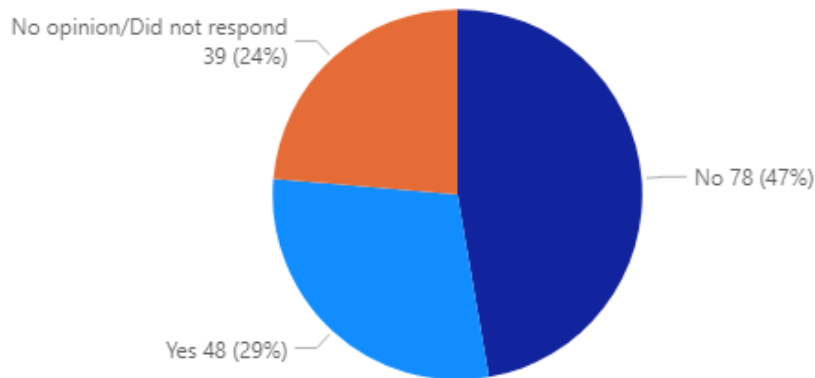
*“The Licensing Authority will only grant applications that can demonstrate that they will promote the [prevention of crime and disorder, public safety, prevention of public nuisance or protection of children from harm] licensing objective.”*

- 9.3 The policies then set out the criteria that the Licensing Authority will apply and the considerations that it will take into account when considering the application.

## Number of Responses and Demographics

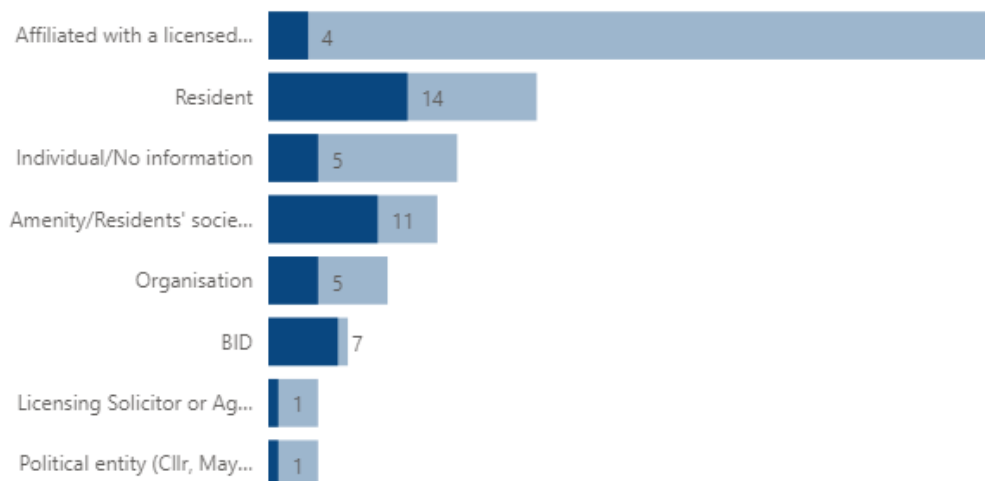
9.4 Out of the 166 responses to this consultation, 48 respondents were in favour of the proposal, 78 respondents were opposed to the proposal and 39 had no

Q8. Do you agree with the proposed changes to the Licensing Objectives polici...



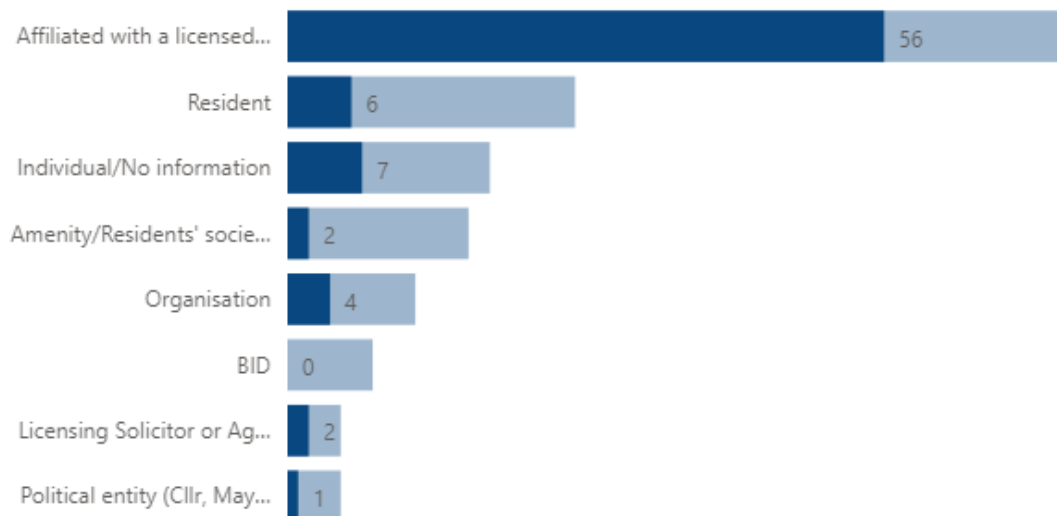
opinion/did not respond.

9.5 The graphs below show the number of respondents by demographic who either supported the proposal, were opposed to it or had no opinion/did not respond.

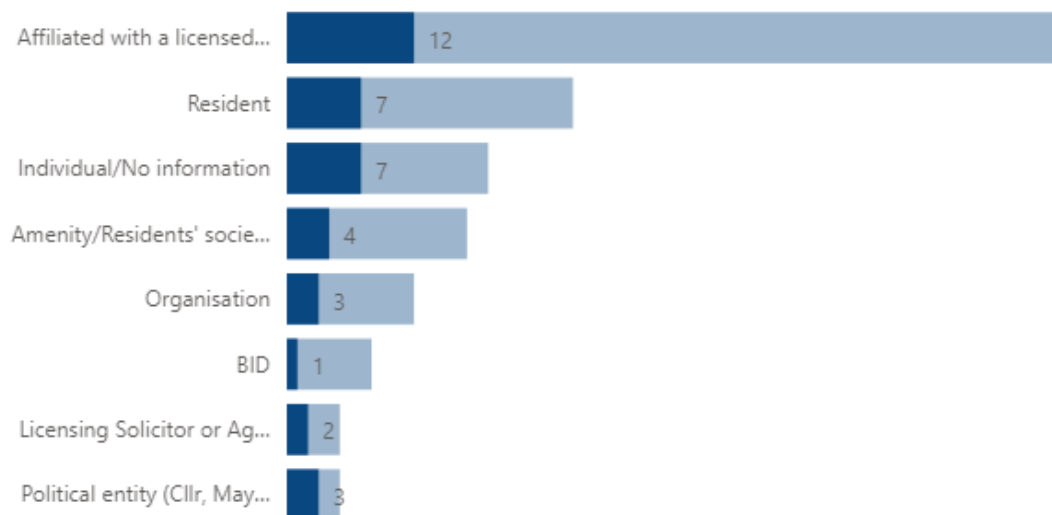


*The number of respondents by demographic who did agree with this proposal.*





*The number of respondents by demographic who did not agree with this proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this part of the proposal.*

## Summary of Responses

### 9.6 Comments on the proposal included:

- More clarity was needed as to what was expected of the applicant within these policies. An example put forward related to controlling the external space and when an area ceases to be under the licensee's jurisdiction.
- Some respondents who were in favour of the proposals suggested additional considerations could be added relating to transport and the impact of patrons arriving and leaving.

- Dispersal and people congregating outside venues was also identified as a key factor relating to impacting the Licensing objectives.
- One respondent proposed that the model conditions should be amended to reflect the revised policy structure.
- The need for applicants to provide more information in their operating schedule was something that residents flagged as essential to enabling them to understand their operation and the Licensing Objectives.
- Some respondents stated it would be difficult for some residents to adequately comment on applications without enough understanding of these policies.
- One respondent felt that these revisions were subjective, checklist driven and could stifle entrepreneurship.
- It was felt that the proposed changes to these policies were not minor changes and were in fact a significant change from the current policy approach. They stated that “the introduction of policies which state that ‘The Licensing Authority will only grant applications that can demonstrate....’ reverses the normal licensing burden, will impose significant financial and administrative burdens, and is contrary to the principles in the Regulators’ Code”.
- One respondent stated that these revisions, particularly Policy PN1 referred to “nuisance”, “causing a disturbance”, “noise that could affect people” and “prevent disturbance” were all beyond the requirements of the prevention of public nuisance licensing objective.
- A number of respondents have raised that they feel more information about the operation of the venues and control measures proposed are required from the applicant. The respondents felt strongly that this additional information should be included in the applicants operating schedule. This information is essential for residents so that they can adequately understand the operation of the premises and the possible impacts it may have on the licensing objectives.

## **9R - Licensing Authority Response and Action:**

It is important to note in keeping with the overall aim of the review the revised policy approach is reasonably consistent with the current policy. The framework of these policies has been amended and there is now an emphasis on the grant being subject to the applicant demonstrating that the licence will promote the licensing objectives. The Licensing Authority has not changed the criteria and has only made some very minor additions to the considerations within these policies. The additional or amended considerations are:

- Policy CD1(6) which relates to the premises having sufficient CCTV,
- Policy PS1(2) which relates to a terrorism threat risk assessment,
- Policy PN1(3) the headings of the current considerations have been incorporated into that paragraph, and
- PN1(3)(f) where delivery companies have been included.

The Licensing Authority duty under section 4(1) of the Act is to promote the Licensing Objectives. The Home Office Revised Guidance (April 2018) refers to this in its introduction at paragraphs 1.2 to 1.4:

*“1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.*

*1.3 The licensing objectives are:*

- *The prevention of crime and disorder;*
- *Public safety;*
- *The prevention of public nuisance; and*
- *The protection of children from harm.*

*1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.”*

The Licensing Objective policies CD1, PS1, PN1 and CH1 have been included in the Councils Statement of Licensing Policy since the first revision in 2005. The proposed revision to these policies is intended to provide more of an emphasis on the purpose of these policies and embody the Licensing Authority's expectations. The Home Office Revised Guidance at paragraph 8.41 highlights the need for Licensing Authority's to make applicants aware of its expectations. It also sets out the importance of the operating schedule

*“8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.”*

Whilst there is a greater number of respondents who did not agree with the proposals, (the majority of which are affiliated with licensed premises) the criteria and considerations proposed are identical to the current policies, except for those slight amendments as detailed above. Some respondents have expressed that the criteria and considerations could be clarified, or additional considerations could be included, specifically relating to transport. More detailed assessment of the responses relating to this proposal will be made with regard to whether the criteria and considerations should be further amended.

The Metropolitan Police Service have requested that additional considerations are added to both the Crime and Disorder and Public Safety Licensing Objective Policies associated with Counter Terrorism. They have also proposed an additional Appendix is attached to the Statement of Licensing Policy that corresponds with the Counter Terrorism consideration and sets out the relevant Action Counter Terrorism (ACT) Products available for licensees.

The Licensing Authority intends to make some slight amendments to the proposed wording of the Licensing Objectives Policies to clearly state that the Licensing Authority will not grant applications if they do not promote the licensing objectives. This amendment will also include the proposed wording of the Licensing Objectives Policies as consulted upon but will also include the additional Counter Terrorism considerations and Appendix proposed by the Police. The relevant policies are included in the revised Statement of licensing Policy in Section C. The ACT Products Appendix is included in the Statement of Licensing Policy at Appendix 7B.

The Licensing Authority has also included information within the revised Statement on the Citizen Advice Bureau's Licensing Project, which is a free service for Westminster residents that provides support understand what is being applied for and to comment on those applications where the resident has concerns.

**10. Revised Policy Framework and addition of safeguarding as a key consideration to the Protection of Children from Harm Policy (CH1)**

10.1 There are two parts to this proposal. The first relates to the amended licensing objective policy framework, as described in part 8 above. The Protection of Children from Harm Policy CH1 would be amended to state:

*“The Licensing Authority will only grant applications that can demonstrate that they will promote the protection of children from harm licensing objective.”*

10.2 The policy then sets out the criteria the Licensing Authority will apply and the considerations that it will take into account when considering the application.

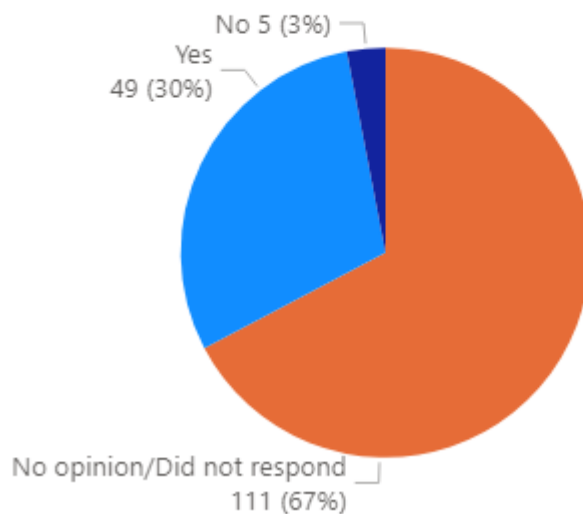
10.3 The second part of this proposal is the inclusion of safeguarding within this policy. The Licensing Authority feels that it is essential that the safeguarding of children was added as a key consideration to this policy. The proposed amended policy added a set of minimum criteria and provided that applicants/licensees should designate someone who has specific operational responsibilities to ensure children are safeguarded within their premises. These responsibilities included that the designated person must:

- (a) Ensure that all staff were provided with safeguarding training,
- (b) Monitor and record whether all staff have received the minimum (initial and refresher) safeguarding children training,
- (c) Ensure all staff have read and know where to find this policy and the Government Guidance: "What To Do If You're Worried A Child is Being Abused",
- (d) Provide advice and support to staff when they have a concern about safeguarding a child,
- (e) Have a system in place to record all concerns raised by staff
- (f) Be the contact person for the Council's Children's Services Department and the Police in relation to all incidents or concerns related to the safeguarding of children on or linked to the premises,
- (g) Ensure all staff are made aware that if the person who they suspect may be harming children is senior to them in the licensed premises staff hierarchy they can contact the Council's Children's Services Department and the Police directly

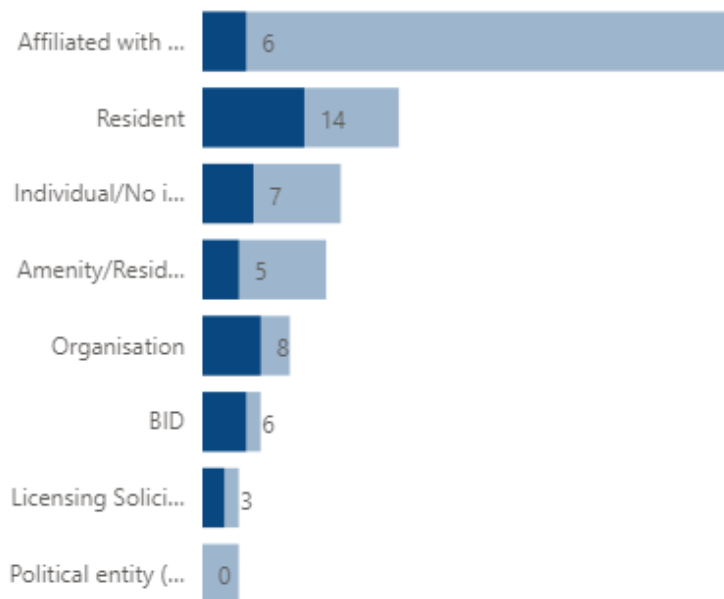
## Number of Responses and Demographics

- 10.4 In relation to the first part of the proposal, whether the Protection of Children from Harm framework should be revised the Licensing Authority received 54 responses where the respondent either was in favour or opposed. For the second part of the proposal, whether the Protecting Children from Harm Policy CH1 should include the safeguarding of children the Licensing Authority received 55 responses that were either in favour or opposed to this proposal. Licensees or those affiliated with licensed premises were the largest group of respondents to this proposal.
- 10.5 Of the 166 total responses to the first part of this proposal, whether the Protection of Children from Harm Policy framework should be revised, 49 respondents were in favour of the proposal whilst 5 respondents were not. The remaining 111 had no opinion/did not respond.

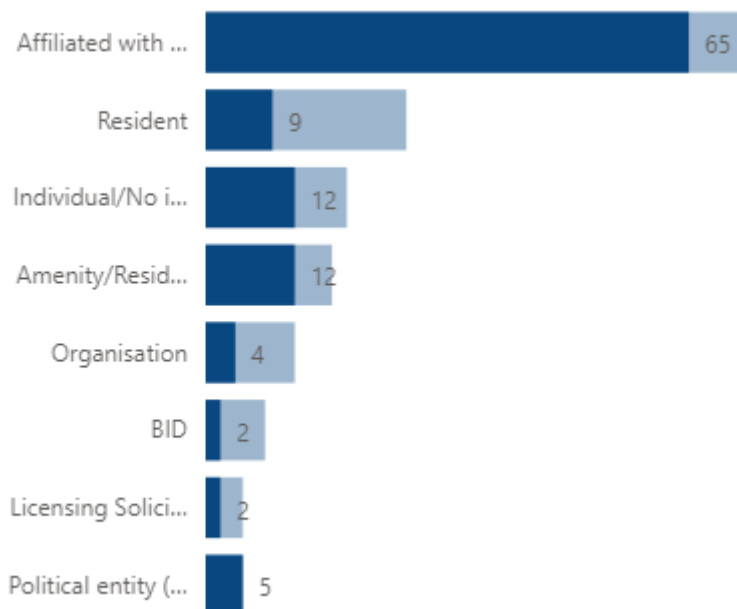
Q10. Do you agree with the proposed chang...



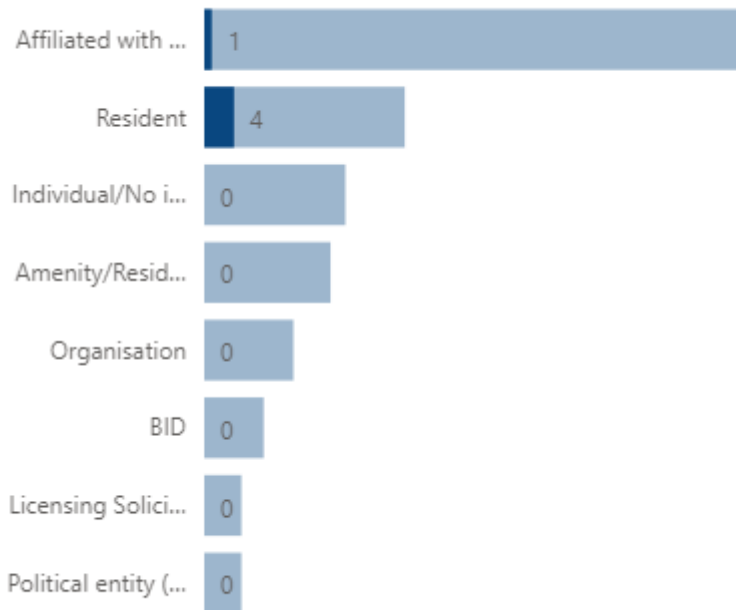
10.6 The bar charts below show the number of respondents by demographic who agreed, did not agree or had no opinion/did not respond to this proposal.



*Number of respondents by demographic who agreed with this part of the proposal.*



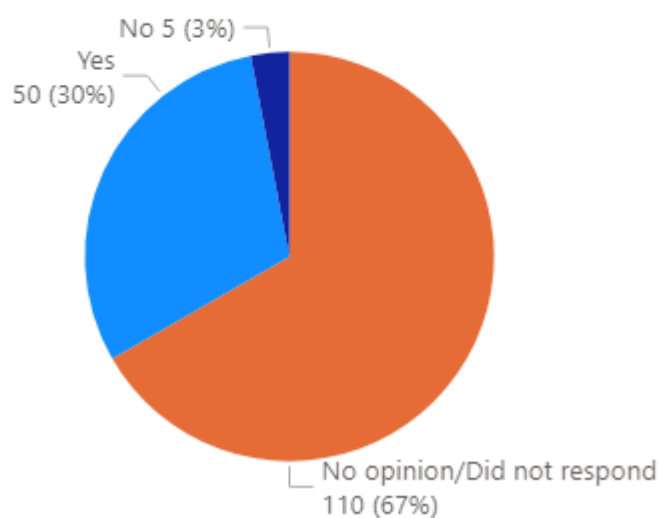
*Number of respondents by demographic who did not agree with this part of the proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this part of the proposal.*

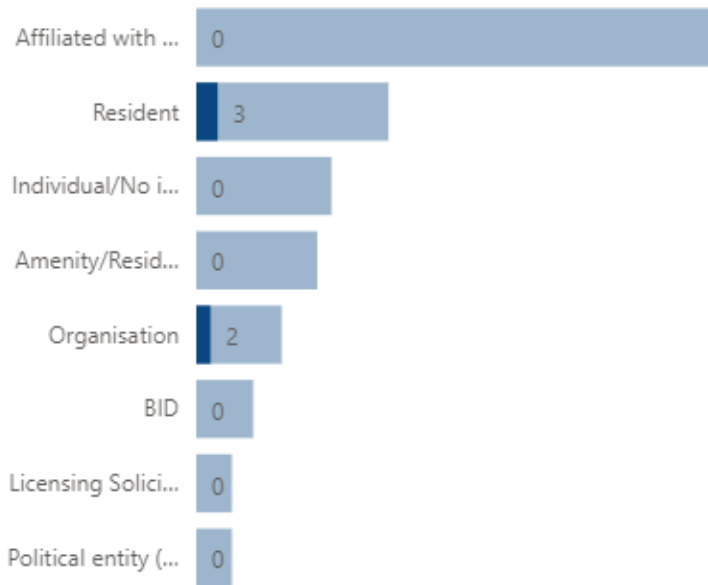
- 10.7 Of the 55 responses on whether the Protection of Children from Harm Policy should include the safeguarding of children, 50 respondents were in favour of the proposal whilst 5 respondents were not.

Q11. Do you agree with the inclusion of the ...

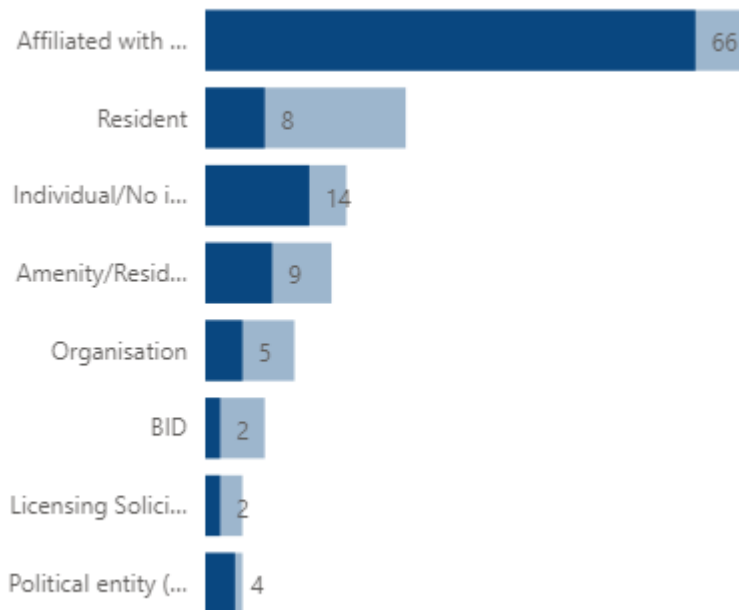


- 10.8 The bar charts below show the number of respondents by demographic who agreed, did not agree or had no opinion/did not respond to this proposal.

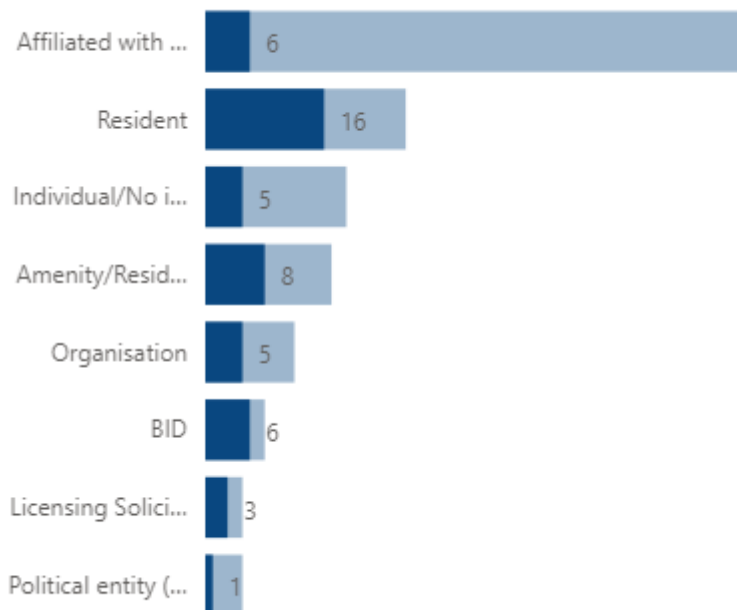




*Number of respondents by demographic who agreed with this part of the proposal.*



*Number of respondents by demographic who disagreed with this part of the proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this part of the proposal.*

### Summary of Responses

#### 10.9 Comments on the proposal included:

- Training on safeguarding provided by the Council along with specific guidance would be useful to ensure that licensees can meet the new policy considerations.
- One respondent raised how the checks on safeguarding training will be undertaken for new applications and variation of existing licences.
- One respondent welcomes the simplicity and clarity of this proposed approach to this Licensing Objective policy.
- Some respondents have proposed amendments and strengthening of this policy, for example the requirement for DBS checks on staff.
- It was stated that the role of licensees and their staff with regard to safeguarding is limited and it is arguable that the general requirement for the protection of children from harm already includes safeguarding concerns.

**10R - Licensing Authority Response and Action:**

The Licensing Authority intends to include a slightly amended version of the proposed revised Protection of Children from Harm Licensing Objective Policy CH1.

Additional information and Appendices have been added to the Statement of Licensing Policy to provide greater information to applicants on Safeguarding and the Licensing Authority expectations.

The revised Protection Children from Harm Policy CH1 will be amended to make it clear that the Licenisng Authority not grant an application that does not promote the Licenisng Objective. This revised policy is included in the revised Statement of Licensing Policy as section C. The new Appendix on safeguarding is provided at Appendix 12.

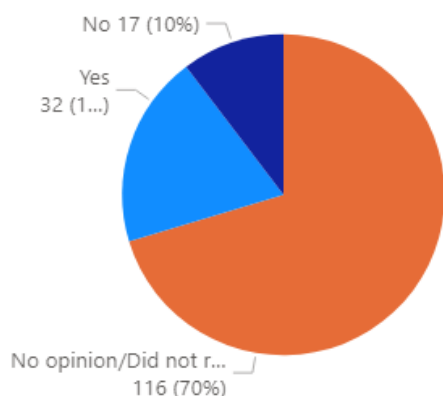
**11. Retention of the existing West End Cumulative Impact Zone boundary, except for the North East area beyond Covent Garden, and to revise the policy framework for the Cumulative Impact Policy (CIP1)**

- 11.1 Policy CIP1 sets out the Licensing Authorities' approach to applications within the Cumulative Impact Zone (CIZ). The proposed amendment was to remove the policy to refuse pubs and bars, fast food premises and music and dancing and similar entertainment venues within the CIZ. This would be replaced with a policy to refuse these types of venues if they had an opening hour before 10:00 and a terminal hour beyond 21:00. Applications for other premises types within the CIZ would be subject to other policies within this statement and must demonstrate that they will not add to cumulative impact.

Number of responses and Demographics

11.2 The Licensing Authority received 32 responses in favour of this proposal, 17 opposed and 116 who had no opinion/did not respond.

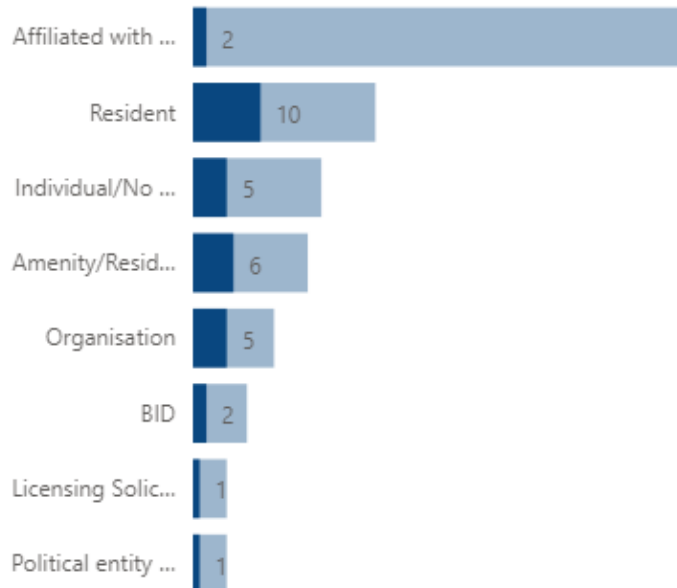
Q13. Do you agree with the proposed r...



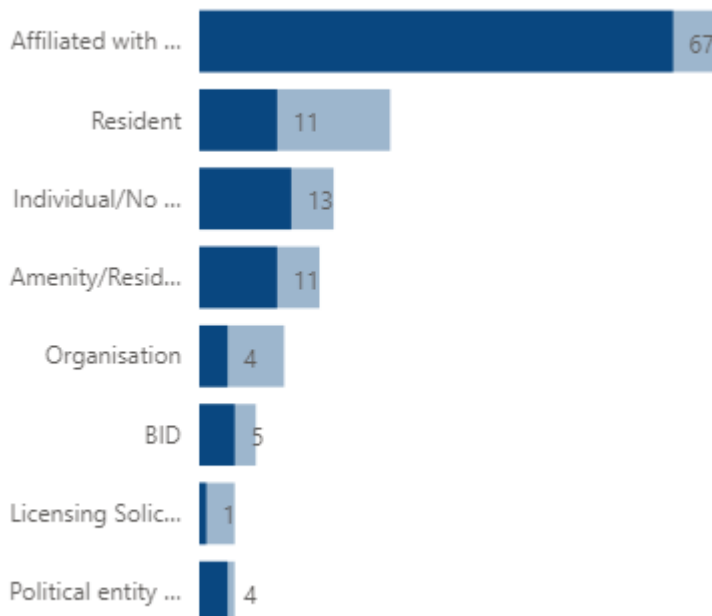
11.3 The table below sets out the responses that the Licensing Authority received on the proposals relating to the boundary of the West End Cumulative Impact Zones within policy CIP1.

Question No.	Question	Do you agree with the proposed revision?		
		Yes	No	No opinion/did not respond
Q14.1	Not expanding the West End Cumulative Impact Zone to include Zones 1 and 2	39 (24%)	13 (8%)	113 (68%)
Q14.2	Retaining the current West End Cumulative Impact Zone (except for the North East beyond Covent Garden)	33 (20%)	16 (10%)	116 (70%)
Q14.3	Excluding the area to the North East of Covent Garden, which is within the current boundary of the West End Cumulative Impact Zone, from the proposed new boundary for this	29 (18%)	14 (8%)	122 (74%)

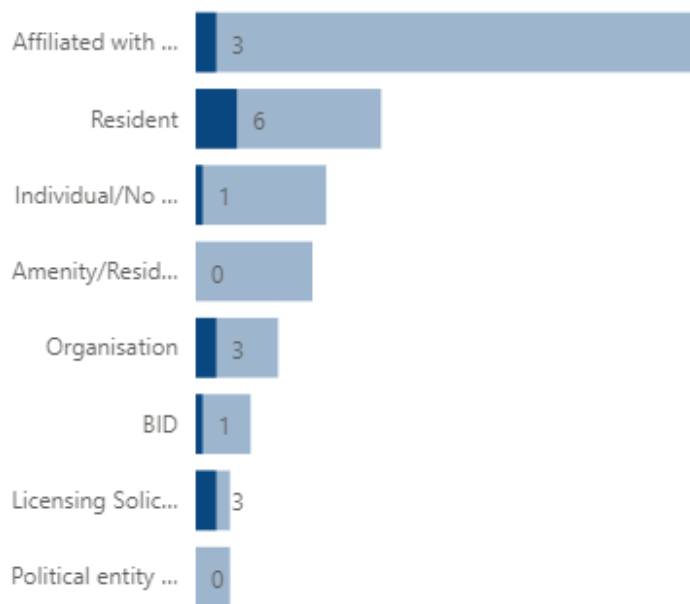
11.4 The breakdown of the respondents who were supportive of the proposed revisions to the framework and those who were not are shown in the graphs below.



*Number of respondents by demographic who agreed with this part of the proposal.*



*Number of respondents by demographic who agreed with this part of the proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this part of the proposal.*

### Summary of Responses

#### 11.5 Comments on this proposal included:

- Concerns the proposed timings, including that the presumption to grant before 9pm would lead to more alcohol led premises being opened to that point.
- Others commented that venues that could only operate to 9pm would not be viable and imposes a greater restriction.
- Some respondents commented that the Cumulative Impact Policy was too restrictive and would restrict growth and regeneration post-pandemic. Others thought it should be reviewed after 12 months to ensure it was not a barrier to recovery.
- Concerns were raised about there not being enough evidence available since the beginning of the COVID-19 pandemic.
- One comment made the point that they believed that the proposed CIP1 '*is discriminatory toward BAME, disabled, lower socio-economic groups by restricting their access to essential services*'.

#### 11.6 Some respondents suggested specific amendments, they were:

- Including a statement that, if cumulative impact levels reached pre-pandemic levels, a more restrictive policy in Cumulative Impact Zones (CIZ) could be introduced.

- CIZ Boundaries should not be in the middle of a road, as this will lead to an increase in applications on one side.
- Points A and B in CIP1 should be reversed to ensure there is an emphasis on 'other applications' demonstrating that they do not add to cumulative impact, which the respondent suggested is often ignored
- Fast Food premises should not be treated the same as alcohol led premises under CIP1
- St James Market should not be included in the West End CIZ as there is a lack of residential properties

#### **11R - Licensing Authority Response and Action:**

The Licensing Authority intends to implement the proposed West End Cumulative Impact Zone which retains the current Cumulative Impact Zone boundary except for the area to the East of Convent Garden.

The Cumulative Impact Assessments findings could not conclusively link the area to the East of Covent Garden with incidents associated with cumulative impact.

Although there were calls for the area to be removed all together or the policy approach relaxed because of the impact of COVID-19 it is felt that retaining the current Cumulative Impact Zone boundary will provide a balance of consistency and also protective measures for residents.

The Licensing Authority has also decided not to amend the boundary as proposed by The Crown Estate, CAPCO and Shaftesbury to exclude those areas from the Cumulative Impact Policy. It is intended to engage with these three organisations next year on their submissions and look at those proposals in greater detail prior to a further review of the Policy.

Note: The Licensing Authority does intend to review the Cumulative Impact Assessment and following those results review this policy again. The review of the Cumulative Impact Assessment will be undertaken over the next 1 to 3 years depending on the rate of recovery from the impact of COVID-19.

The revised Cumulative Impact Policy CIP1, which contains the new West End Cumulative Impact Zone boundary has been included within Section D (Spatial Policies Section) of the revised Statement of Licenising Policy

## **12. The removal of the Cumulative Impact Zones for Edgware Road and Queensway/Bayswater**

- 12.1 The CIA did not conclusively link licensed premises in Queensway/Bayswater and Edgware Road with cumulative stress. As there is insufficient evidence at this time to support the retention of these areas as cumulative impact zones, they will no longer be subject to the Cumulative Impact Policy – CIP1. These

areas will be within the proposed Special Consideration Zones (discussed below)

### Number of responses and Demographics

- 12.2 Of the 166 respondents to the consultation, 47 were in favour of the removal of the Cumulative Impact Zones for Queensway/Bayswater and Edgware Road. 52 were opposed to their removal. A breakdown of these relevant responses per area is set out in the table below.

Question No.	Question	Do you agree with the proposed revision?		
		Yes	No	No opinion/did not respond
Q16.1	Remove: Queensway/Bayswater Cumulative Impact Zone	24 (15%)	28 (17%)	113 (68%)
Q16.2	Remove: Edgware Road Cumulative Impact Zone	23 (14%)	24 (15%)	118 (72%)

### Summary of Responses

- 12.3 Comments on the proposals included:

- That there is not enough evidence since the beginning of the pandemic on which to base these decisions.
- There are high levels of anti-social behaviour (ASB) in these areas that did not meet the criteria to be included in CIA but affect residential amenity and should be considered
- There should be an explanation as to why the levels of impact in these areas was not enough to justify a CIZ
- The absence of observational data means that the impact of public nuisance is understated.
- That on Edgware Road the Licensing Authority should make it easier for new applicants in order to reduce the number of vacant units and that crime cannot be linked to specific premises and there are other issues in the area (e.g. prostitution) that cause ASB but are not linked to licences premises.
- One suggestion made was to keep the current Cumulative Impact Zones in place until the impact of the COVID-19 pandemic is clear.



### **12R - Licensing Authority Response and Action:**

The Cumulative Impact Assessment was produced on data collected between 2017 and 2019. The incidents and crime data did not provide a conclusive link the incidents and crime in the area were a result of the cumulative impact of licensed premises. A number of respondents to the consultation highlighted incidents and anti-social behaviour that related to begging, rough sleepers and prostitution. These types of activity are not normally directly related to licensed premises.

As stated within the Cumulative Impact Assessment and within the consultation document for the proposed revisions of the Statement of Licensing Policy, the Licensing Authority was unable to undertake direct observational analysis as a result of COVID-19. It is unknown whether observational analysis would have changed the findings within the Cumulative Impact Assessment for these areas.

The Licensing Authority is bound by the requirements of the Act in that it can only identify an area as a Cumulative Impact Zone and impose a restrictive policy if it can demonstrate that there is evidence that the area is under cumulative stress. That evidence must be presented in the Licensing Authority's Cumulative Impact Assessment.

Therefore, the Licensing Authority intends to remove the Cumulative Impact Zone designation and Cumulative Impact Policy requirements for Queensway/Bayswater and Edgware Road.

Note: The Licensing Authority is committed to undertaking a further review of its Statement of Licensing Policy and the Cumulative Impact Assessment within the next three years. This is much earlier than the statutory deadlines imposed within the Act for such reviews. This review will look at how the City has responded during the recovery from the impact of COVID-19 and how the policies should be revised further considering the findings of that review.

### **13. A revised Core Hours Policy (HRS1) framework based on premises uses rather than licensable activities**

- 13.1 The current Core Hours Policy has three core hours that applications are intended to fall within. These are for premises that sell alcohol for consumption on the premises, premises that sell alcohol for consumption off the premises and for premises that provide the provision of other licensable activities.
- 13.2 The proposed revision of this policy will change the framework of the Core Hours policy to relate to the premises use type rather than whether the premises sell alcohol on or off the premises or provides other licensable activities. The premises use definitions are already contained within the

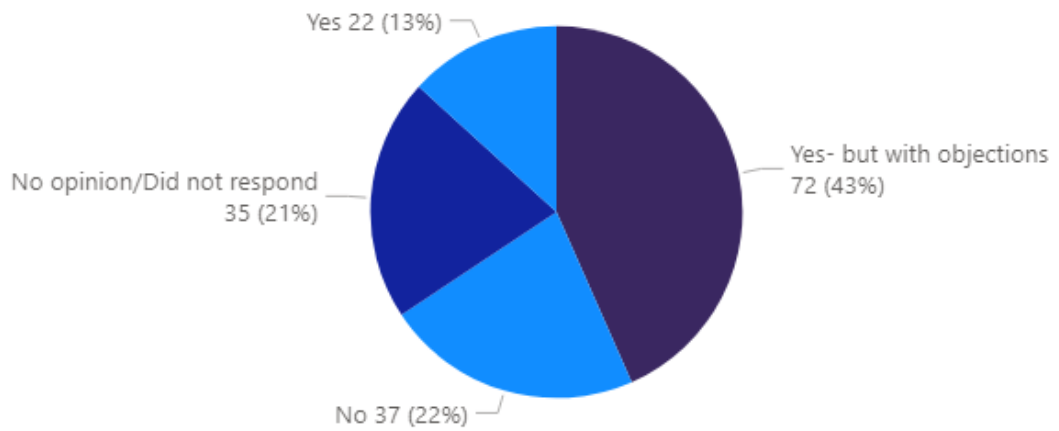
current policies associated within the venues. The intention was to convert the current Core Hours to apply to the specific premises uses as defined within the premises use policies within the Statement of Licensing Policy. This meant that the venues primary use and the main licensing activity were used to determine the appropriate Core Hours to apply to the premises.

- 13.3 For Cinemas, cultural venues and live sporting premises there is an intention to extend the Core Hours for these venues to midnight seven days a week. This extended Core Hours proposal recognises that cinemas, cultural venues and live sporting premises can provide specific benefits to the area and local community. These venues attract a diverse mix of customers, both in terms of backgrounds but also in ages. This diverse range of customers provides a stabilising influence in an area with people who may be older or with their families. These venues provide local communities with an opportunity to experience culture and the arts, something which the Council is keen to encourage.
- 13.4 It was also intended to set Core Hours for pubs and bars, fast food premises and music and dancing venues within the West End Cumulative Impact Zone with a maximum terminal hour of 21:00hrs. This was also reflected in the proposed revision of the Cumulative Impact Policy (CIP1) and the proposed revisions of the premises use policies PB1, FFP1 and MD1. The Current Cumulative Impact Policy (CIP1) and the relevant premises use policies (PB2, FFP2 and MD2) has a presumption to refuse applications relating to these premises uses within the Cumulative Impact Zones. It doesn't make any allowances for applicants that may wish to operate up to when cumulative impact occurs. The 2020 Cumulative Impact Assessment established that cumulative impact within the West End Zones 1 and 2 could be identified as impacting on incident rates from 21:00 each day. The proposed Core Hours for these premises within the West End Cumulative Impact Zone was intended to relax the current policy approach, providing a period in which applications for these types of venues would not be subject to that presumption to refuse. For pubs and bars, fast food premises and music and dancing venues outside the West End Cumulative Impact Zone the Core Hours were set to the current Core Hours for the sale of alcohol on the premises.
- 13.5 The full proposed revision to the Core Hours Policy HRS1 is set out in the consultation document at Appendix 1.

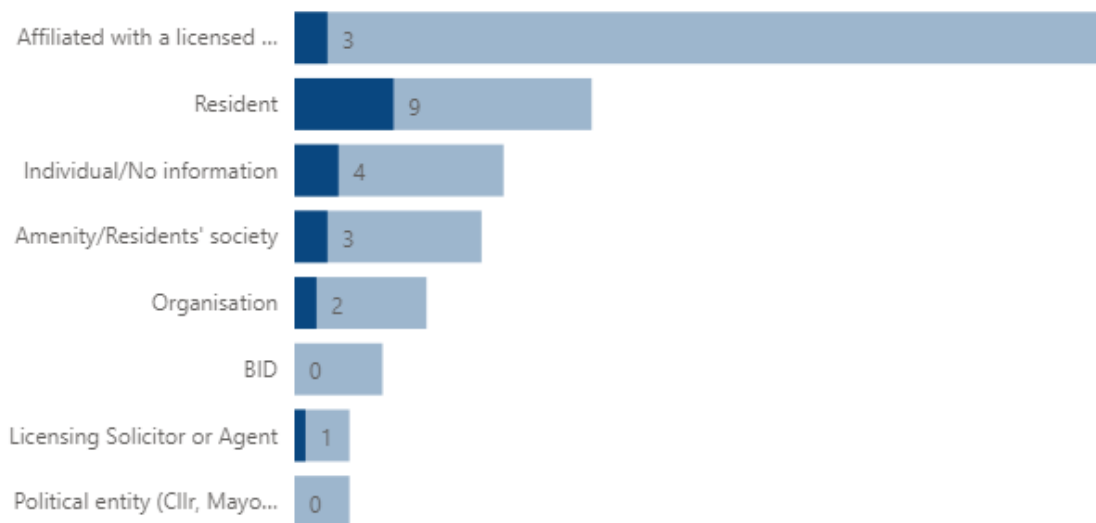
#### Number of Responses and Demographics

- 13.6 Of the 166 responses, 22 respondents were in favour of the proposal, 72 were in favour of the proposals but had specific objections associated with one or more of the premises types Core Hours, 37 were opposed to the proposal and 35 had no opinion/did not respond.

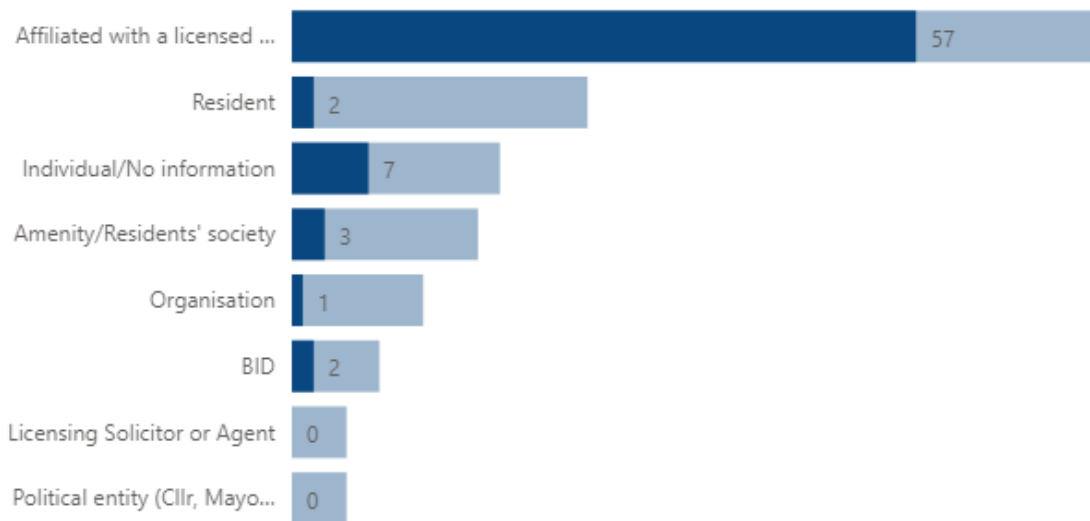
Q18. Do you agree with the proposed changes to the Core Hours Policy (HRS...



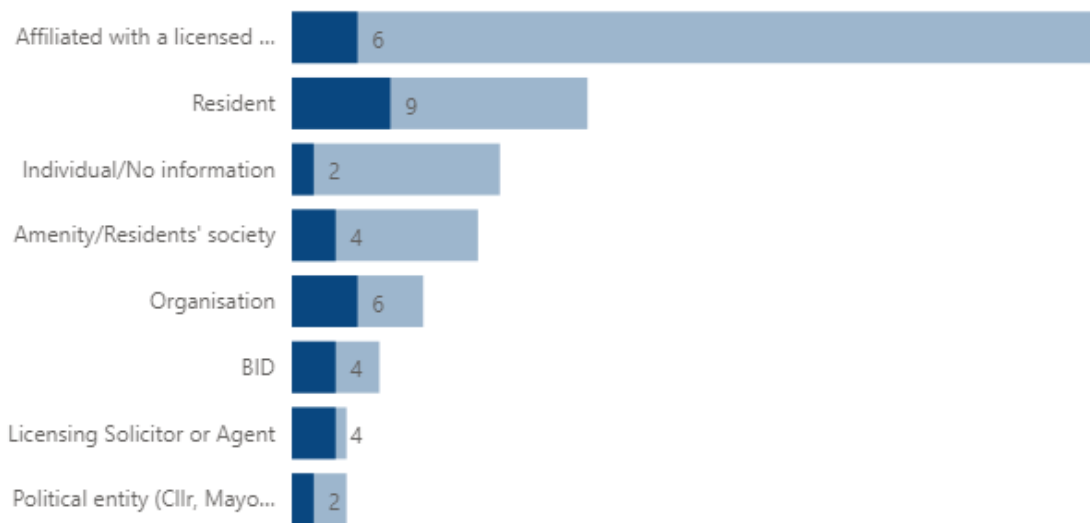
13.7 The graphs below show the number of respondents by demographic who either supported the proposal, supported the proposals but had specific objections, did not support the proposals and had no opinion/did not respond.



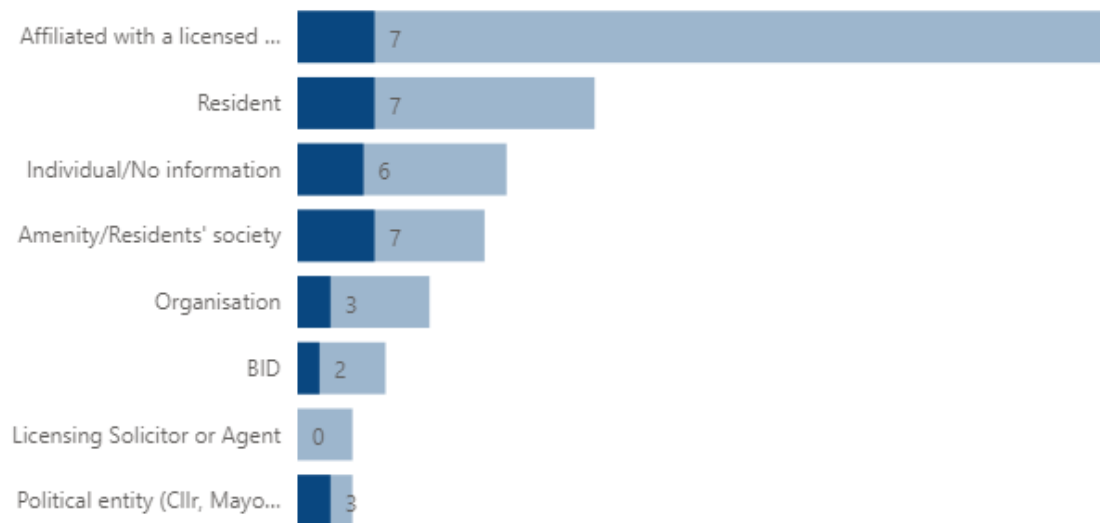
*Number of respondents by demographic who agreed with the proposal.*



*Number of respondents by demographic who agreed with the proposal but had specific objections associated with one or more of the premises type Core Hours.*



*Number of respondents by demographic who did not agree with the proposal.*



*Number of respondents by demographic who had no opinion/did not respond to this proposal.*

### Summary of Responses

#### 13.8 Comments on the proposals included:

- The slightly longer hours for theatres are welcome and there is support for the general principle that hours later than Core Hours will be considered on their own merits.
- The additional restrictions placed on theatres within the West End that alcohol sales and late night refreshment beyond 23:00hrs must be ancillary to the primary use of the venue and limited to members of the audience appears to be more restrictive than the current policy which provides that bar uses will usually be contemporaneous with performances but that longer hours can be argued for as an exception, without a strict curfew of 23:00hrs.
- A large proportion of the respondents commented on the new Core Hours for pubs and bars, fast food premises and music and dance venues within the West End. It is felt that the 21:00hrs limit would be unworkable for any business. This restriction would prohibit new businesses opening in the West End and with the impact of COVID-19 large numbers of venues are already closing up across the city.
- A large number of respondents stated that they were supportive of the policy revision except for the restriction of 21:00hrs in the West End for pubs and bars, fast food premises and music and dance venues where they felt it should be extended to a later terminal hour which was suggested to be 23:00hrs at a minimum.
- A respondent stated that the policy should be further amended to include a clause that requires applicants to demonstrate that the circumstances are clearly exceptional in order to justify any extension to hours.

- Another respondent stated that it should be a requirement that any premises apply for a licence after 23:00hrs should be required to produce a dispersal policy to show how the venue will disperse their customers away from their venue and reduce the impact on noise nuisance on local residents.
- There was a concern relating to the grouping of restaurants with sex establishments hours as these types of operations are very different. It was also suggested that restaurants should be permitted to have later hours than those proposed in this policy.
- Some respondents were supportive of the proposal to change the framework of this policy based on premises use rather than licensable activities. However, some respondents raised the issue that premises operations change and evolve, and these premises use categories may not fit all premises operations.
- Some respondents raised concerns about the earlier start time that was provided under the revised policy. Proposals for a start time of 09:00hrs should be considered on its own merits and with consideration to the impact on residents.
- A respondent has raised concerns about the proposed hours for Casinos and that under the new proposed Core Hours they will generally be granted 24 hours licences. They are concerned that the majority of Casinos are located within the Cumulative Impact Zone and 24-hour licences are likely to add to cumulative impact and as such should not be permitted.

### **13R - Licensing Authority Response and Action:**

There has been a strong response to the proposed 21:00hrs terminal hour for pubs and bars, fast food premises and music and dance venues within the West End. The intention was to relax the Cumulative Impact Policy and associated premises use policies (PB1, FFP1 and MD1) to remove the presumption to refuse any applications for those premises uses within the West End Cumulative Impact Zone for premises that apply for hours between 10:00hrs and 21:00hrs. Therefore, it was proposed to introduce these hours as Core Hours for those premises uses within the Cumulative Impact Zone.

Although there was support to permit pubs and bars, fast food premises and music and dance venues within the West End Cumulative Impact Zone to open later, there was significant opposition to the proposed 21:00hrs terminal hour. As identified in the 2020 Cumulative Impact Assessment cumulative impact was identified as taking place within the West End from 21:00hrs. To permit these premises uses within the West End Cumulative Impact Zone beyond 21:00hrs would likely negatively impact the licensing objectives and increase cumulative impact in the area.

The Licensing Authority, having considered the responses on this point have decided to remove the proposed Core Hours for Pubs and Bars, Fast Food Premises and Music and Dance venues within the West End Cumulative Impact Zone. The Cumulative Impact Policy (CIP1) has also been amended to revert to the current policy approach, which has a presumption to refuse applications for these premises uses within the Cumulative Impact Zone. A new paragraph has been added to the CIP1, Music and Dancing (MD1) and Pubs and Bars (PB1) policy's that provides a possible exception from the presumption to refuse under these policies if the terminal hours do not exceed 21:00hrs. However, any applications considered to be an exception will not be able to utilise the policy presumption that will generally grant variations to Core Hours. The proposed exception is to enable businesses to operate up to 21:00hrs if they wish and therefore, they will not add to cumulative impact which starts and escalates dramatically after 21:00hrs each day.

The proposed longer hours for cinemas, cultural venues (which include theatres) and live sporting venues also generated some detailed responses, particularly from theatre operators. The intention of the proposed revision relating to Core Hours for cultural venues was to provide them with additional hours later at night to enable them to provide their patrons with the ability to purchase food or a drink after a performance. This was in recognition of the contribution that cultural venues bring to the city and their local community. These venues are also low risk in terms of the impact that they have on the licensing objectives. However, for venues wanting to take advantage of these later Core Hours, particularly within the West End Cumulative Impact Zone the sale of alcohol and provision of late-night refreshment should be limited to patrons who have attended an event at the venue.

The Licensing Authority is concerned that by opening up access to the bars within the premises to people who have not attended a performance or event could lead to the venue becoming a late bar. If that were to occur, then this is likely to increase the risk of the venue's operation impacting on the licensing objectives and for venues within the Cumulative Impact Zone it would likely add to cumulative impact.

The Licensing Authority will remove the Core Hours for Pubs and Bars, Fast Food Premises and Music and Dance venues within the West End which had the terminal hour of 21:00.

The Licensing Authority does not intend to change the new Core Hours for Cinemas, Cultural Venues (including theatres) and Live Sporting Premises as the requirement for premises in the West End Cumulative Impact Zone

to ensure that the sale of alcohol and late-night refreshment after 23:00 to customers/audience members will reduce any risk of the premises becoming a destination bar adding to cumulative impact and the risk of a negative impact on the licensing objectives.

The Licensing Authority will, however, amend the Core Hours policy to separate Restaurants from Sexual Entertainment Venues and Sex Cinema hours.

The revised Core Hours policy is included in the revised Statement of Licensing Policy as section E.

#### **14. A new Special Consideration Zone Policy (SCZ1)**

14.1 The Licensing Authority intends to create a new Special Consideration Zone Policy SCZ1. The aim of this policy is to designate the following areas as Special Consideration Zones:

- West End Buffer
- Queensway/Bayswater
- Edgware Road
- East Covent Garden
- Mayfair
- Victoria

14.2 These areas were identified in the CIA as areas of concern, however, with the exception the West End Buffer, did not meet the threshold for designation as Cumulative Impact Zones.

14.3 The policy will set a requirement for applicants to consider the local issues and then put forward appropriate mitigation to prevent them from having a negative impact on the area.

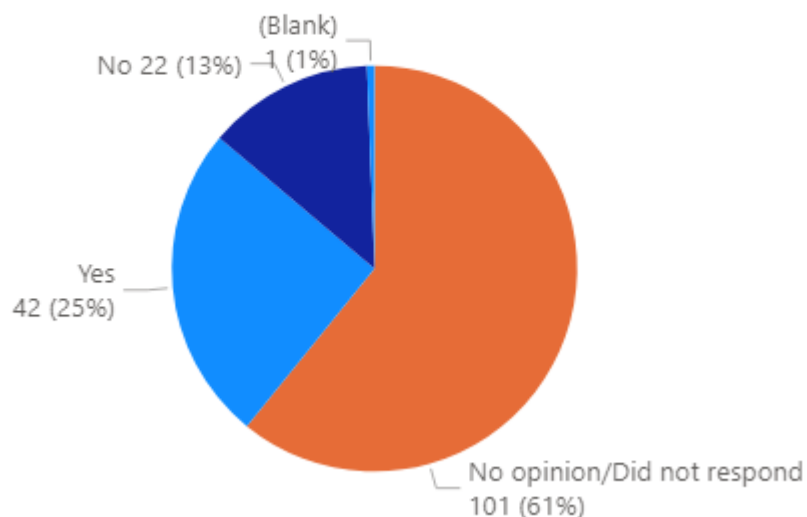
14.4 Applicants will be expected to address how they will promote the Licensing Objectives in the normal way, but it is also intended that applicants will have to provide greater mitigation and controls than would normally be expected from a premises in other parts of the City, excluding West End Cumulative Impact Zone. This new policy will not be a preventative policy. It is intended to highlight the areas that the Licensing Authority deem to be sensitive.

Number of responses and Demographics



14.5 The Licensing Authority received 42 responses that supported the proposed revision, 22 responses were opposed and 102 had no opinion, did not respond or were left blank.

Q20. Do you agree with the proposal to introduce n...



14.6 The table below sets out the responses that the Licensing Authority received on the proposals relating to the boundary of the West End Cumulative Impact Zones within policy CIP1.

Question No.	Question	Do you agree with the proposal to introduce a Special Consideration Zone Policy for the following areas?		
		Yes	No	No opinion/did not respond
Q22.1	West End Buffer	28 (17%)	22 (13%)	115 (70%)
Q22.2	Queensway/Bayswater	20 (12%)	22 (13%)	123 (75%)
Q22.3	Edgware Road	18 (11%)	23 (14%)	124 (75%)
Q22.4	East Covent Garden	17 (10%)	21 (13%)	127 (77%)
Q22.5	Mayfair	20 (14%)	18 (11%)	124 (75%)
Q22.6	Victoria	25 (15%)	15 (9%)	125 (76%)

### Summary of Responses

14.7 Comments on the proposal included:

- Some strong opposition to SCZ1 as businesses are struggling with reduced demand and additional costs as a result of COVID-19.
- A suggestion that SCZ1 may add additional operating costs to venues in relevant areas.
- That the policy approach in the West End has been kept the same due to COVID-19 and that this should be applied to the rest of the borough and therefore SCZs should not be introduced.
- Some respondents did not agree with the assertion that there is no cumulative impact in these areas and that it only appeared that way compared to the West End Cumulative Impact Zone.
- There was some concern that SCZs were an attempt to introduce CIZs without going through the necessary legal framework and that they would add an unnecessary, complicated layer to the licensing regime.
- It was suggested that additional measures could be introduced to tackle local problems without the need for SCZs such as safe spaces, street pastors or specialist training for venue staff.
- A concern was raised with British Transport Police data used in relation to Victoria as this could include issues that did not actually occur in Victoria.
- Another issue raised concerning Victoria was that there are other issues (e.g. pickpocketing) that would not be addressed by a SCZ whilst penalising venues who do not contribute to those issues.

14.8 Some respondents suggested specific amendments, they were:

- The final policy needs to be very clear that SCZ1 is not restrictive and guidance should be issued to responsible authorities that these are different to CIZ's to avoid them being treated the same.
- Detail about what type of additional measures might be required should be included
- The wording of the policy should be changed to make clear that applicants have to promote the objectives, not mitigate against failing to promote them.
- The Crown Estate suggested that the West End Buffer Special Consideration Zone should be amended to include the whole of Regent Street, excepting the area immediately around Oxford Circus, and Regent Street St James's, Piccadilly Circus, and St. James's Market area. The Crown Estate said that these revisions would enable them to take a more flexible and adaptable approach to their assets at an important time for Regent Street and the wider West End
- The Marylebone Association suggested that the Edgware Road SCZ boundary should be redrawn providing a wider area for the SCZ, but failing that, wanted a continuous boundary from George Street to Marble Arch.
- A suggestion was made that different boundaries could be used for SCZs as they are not constrained by the same legislative requirements as CIZs.

#### **14R - Licensing Authority Response and Action:**

It is proposed to introduce a new policy approach for areas that have been identified as having above the borough average incidents rates and a concentration of licensed premises. It should be noted that this approach is not intended to introduce a cumulative impact zone under a different name. It is also not intended to diminish the policy approach to applications outside of the proposed Special Consideration Zones and the Cumulative Impact Zone.

The Special Consideration Zone policy is intended to introduce a level of scrutiny that lies between the general approach to the rest of the City and the Cumulative Impact Zone. The policy is intended to require applicants to consider the local issues in the area that are detailed within the Cumulative Impact Assessment and demonstrate sufficient mitigation to prevent their venues from adding to the issues locally. This approach is intended to promote the licensing objectives by specifically focusing on the local issues that have been identified relating to crime and disorder and public nuisance. Applicants will be encouraged to set out their considerations and proposed mitigation within the operating schedule of their applications.

Following the feedback at the question and answer sessions that were held during the consultation and from the responses that have been received it is clear that there is a need for greater clarity on what applicants are expected to specifically consider.

There have also been some respondents that have suggested that the boundary of some of the Special Consideration Zones should be amended.

The Licensing Authority has amended the proposed Special Consideration Zone policy to provide greater clarity on this policy approach and what applicants are required to consider. This policy is not a restrictive policy like the Cumulative Impact Policy. It is intended to provide a high light on the issues in the area that applicants should consider and provide adequate mitigation for.

The Licensing Authority considered these requested very carefully but is not minded to create a new Special Consideration Zones for Carnaby Street and its surrounding streets, as requested by Shaftesbury or Central Convent Garden as requested by CAPCO at this time. The Authority is also not minded to amend the West End Buffer Special Consideration Zone to include areas of Regent Street and Piccadilly which are current within the Cumulative Impact Zone as requested by the Crown Estate at this time. It is intended to have further discussions on these proposals with the relevant organisations before the next review of the Statement of Licensing Policy.

A request was received from the Marylebone Association relating to the boundary of the Edgware Road Special Consideration Zone. They highlighted the issues in the area and that the boundary should be increased to the north east so as to provide greater leverage on assessing the impact on the Licensing Objectives in the area. The Portman Estate have argued that the area around the South of Seymour Place should be excluded from this zone. The Licensing Authority has considered this carefully and will amend the boundary of the Edgware Road Special Consideration Zone but only to include Cumberland Court.

Note: It is intended to review the Cumulative Impact Assessment within the next 1 to 3 years and the Special Consideration Zones will be carefully considered as part of that process. It is intended that the next review will be able to include observational analysis which were not possible for the 2020 Cumulative Impact Assessment due to the impact of COVID-19. Until that review takes place the Licensing Authority will be monitoring the effectiveness of the Special Consideration Zones Policy as well as incident rate levels.

The amended Special Consideration Zone Policy is included within the Statement of Licensing Policy Spatial Policies at section D.

- 15. Revised policy framework for premises use policies, updates to policy narrative where necessary and creating a new standalone policy for qualifying clubs.**
- 15.1 The Licensing Authority proposed to amend the policy framework for the premises use policies to match the approach that was being taken with other policies within the revised Statement of Licensing Policy. The revisions did not seek to change the overall intention of the policy but intended to add a specific new consideration associated with premises that are located within one of the Special Consideration Zones. Applications under the relevant premises use type policies will need to demonstrate that they have taken account of the Special Consideration Zone Policy SCZ1.
- 15.2 As part of the proposed change to the policy framework the Licensing Authority intends to move the premises use definition, relating to each premises use policy from its narrative to form part of the key elements in identifying which policy will relate to certain applications.
- 15.3 The Licensing Authority proposed to revise the policy framework and rename the “Nudity, striptease and sex related entertainment Policy NS1” to “Sex Cinemas and Sexual Entertainment Venue Policy SCEV1”. In addition to this the policy was to be amended to specifically relate to Sex Establishments (Sexual Entertainment Venues and Sex Cinemas) as defined under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

- 15.4 The Licensing Authority intends to revise and rename the current Theatres, Cinemas, Other Performance Venues and Qualifying Clubs Policy PVC1. The purpose of this change is to expand the types of cultural venues that would fall under this policy and include live sporting premises. Qualifying clubs will be separated from this policy and a new policy created. The purpose and aim of this policy will be to retain the policy approach but expand the venues to which it relates, refine the expectation that alcohol and late-night refreshment will be ancillary to the main purpose of the venue, and within the West End Cumulative Impact Zone limit access to alcohol and late night refreshment after 23:00 to persons who have attended the exhibition of a film, cultural or sporting event and are taking late night refreshment/alcohol after such event.
- 15.5 It is intended to rename the Theatres, Cinemas, Other Performance Venues and Qualifying Clubs Policy PVC1 to Cinemas, Cultural, Live Sporting Venues and Outdoor Spaces Policy CCSOS1. Cultural venues will include theatres and other performance venues. Live sporting premises is a new premises use and will include stadia, live sporting events where licensable activities will be ancillary to the main event or venues that provide live sport which may be regulated, such as boxing or wrestling. Cultural and live sporting venues will be further defined within this revised policy.
- 15.6 The full proposed revision to the premises use policies are set out in the consultation document at Appendix 1.

#### Number of responses and Demographics

- 15.7 The table below sets out the responses that the Licensing Authority received on the proposals to revise the policy framework for the premises use policies within its Statement of Licensing Policy.

Question No.	Question	Do you agree with the proposed revision?		
		Yes	No	No opinion/did not respond
Q24.1	Restaurants – Policy RTN1	33 (20%)	9 (5%)	123 (75%)
Q24.2	Fast Food Premises – Policy FFP1	25 (15%)	13 (8%)	125 (77%)
Q24.3	Pubs and Bars – Policy PB1	25 (15%)	15 (9%)	125 (76%)
Q24.4	Off sales of alcohol – Policy OS1	29 (18%)	9 (5%)	127 (77%)
Q24.5	Music and dance premises and similar entertainment – Policy MD1	24 (15%)	14 (8%)	127 (77%)
Q.24.6	Hotels – Policy HOT1	25 (15%)	11 (7%)	129 (78%)
Q24.7	Casinos – Policy CAS1	26 (16%)	12 (7%)	127 (77%)
Q24.8	Combined Use Premises – Policy COMB1	25 (15%)	12 (7%)	128 (78%)

- 15.8 The proposal to revise the policy framework and rename the Nudity, Striptease and Sexual Entertainment Policy NS1 to the Sex Cinemas and

Sexual Entertainment Venue Policy SCEV1 received 31 responses in favour of the proposal, 5 against and 129 with no opinion/did not respond.

- 15.9 The proposal to replace the Theatres, Cinemas, Other Performance Venues and Qualifying Clubs Policy PVC1 & 2 with two separate policies for Cinemas, Cultural venues, Live Sporting Premises and Outdoor Spaces Policy CCSOS1 and Qualifying Clubs Policy QUC1 received 30 responses in support of the proposals, 13 opposed and 122 who had no opinion/did not respond.

### Summary of Responses

- 15.10 Comments on the proposal included:

- Some respondents who operate theatres queried the new definition for cultural venues and theatres and raised whether this would prevent them from offering other forms of entertainment and activities, such as the exhibition of a film. The current definition refers to a theatre primary purpose is for the performance of plays or other dramatic performances to an audience.
- A respondent was opposed to the proposed revisions to the Fast Food Premises and Restaurant policies as there was not enough delineation between the two premises uses. It was felt that the wording surrounding fast food premises was too broad and could be used to include all restaurants in the current trading style due to the impact of COVID-19.
- A respondent was concerned about the proposed revision to the policy relating to sexual entertainment venues. They highlighted that the current Statement of Licensing Policy within the NS1 policy contains an important statement which states “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 in the vicinity”. It is proposed that this is reinstated in the new SCEV1 Policy.
- The revision of the Restaurant Policy RTN1 where applications within the West End Cumulative Impact Zone will now “generally be granted” rather than the current “will be granted”.
- A number of respondents have set out possible amendments to some of the premises use policies that will strengthen them or make it clearer to what premises uses they will relate. For example, the reference to a substantial table meal within the Restaurant Policy RTN1 should be strengthened to include a description of what the Licensing Authority define as a substantial table meal.
- There are concerns that the designation of premises according to their use limits the ability to innovate and experiment with different uses or pop-ups. In such cases, innovative new uses rarely will fit into a designated category and the respondents request that the Licensing Authority consider how they may approach such premises in the future if it were to continue to encourage innovations, avoid vacant units and promote the evolution of the evening and night time economy.

- There are concerns that restaurants are not permitted to provide takeaway under the definition within that policy. It was noted that residents often look to purchase takeaways from their local restaurants.
- A number of respondents highlighted that the proposed revision to pubs and bar, fast food premises and music and dance venues to generally permit applications up to 21:00hrs within the West End Cumulative Impact Zone should be removed and revert these policies back to the presumption to refuse applications other than those varying their licence to Core Hours.
- It was highlighted that the Hotels Policy HOT1 should take into account the scale of the licensable areas (bars, restaurants, etc) which are open to non-residents compared to the scale of the hotel.
- One respondent stated that they believed that music and dancing venues should be considered as cultural venues. Many are grassroots music venues and places where new music, diversity, and cultures exists.
- One respondent proposed that Hotels and Combined Use Premises should be subject to policies that actively promote their establishment in areas where there are considered to be in excess of pubs and bars and music and dance venues (nightclubs).

#### **15R - Licensing Authority Response and Action:**

The Licensing Authority has made a number of amendments to the proposed Premises Use Policies as a result of the submissions received during the consultation period.

The Pubs and Bars (PB1), Fast Food Premises (FFP1) and Music and Dancing (MD1) policies will be amended to remove the reference to generally granting applications up to Core Hours within the West End Cumulative Impact Zone. This is to reflect the feedback that was received relating to the 21:00 terminal hour. The amendment will revert the policy approach back to the current policy, which will have a presumption to refuse applications under these policies within the West End Cumulative Impact Zone unless they are varying their existing hours to within Core Hours. The additional allowance for the granting of applications that seek to reduce their capacity within the West End Cumulative Impact Zone will be retained from the initial proposal.

However, a new paragraph has been added to the CIP1, Music and Dancing (MD1) and Pubs and Bars (PB1) policy's that provides a possible exception from the presumption to refuse under these policies if the terminal hours do not exceed 21:00hrs. However, any applications considered to be an exception will not be able to utilise the policy presumption that will generally grant variations to Core Hours. The

proposed exception is to enable businesses to operate up to 21:00hrs if they wish and therefore, they will not add to cumulative impact which starts and escalate dramatically after 21:00hrs each day.

Following the receipt of the Environmental Health consultation response a number of changes are proposed to the definitions of some of the premises use policies. The proposed amendments are intended to clarify and finesse the definitions of the premises uses that would be considered under those policies.

The Cinema, Cultural Venue, Live Sporting Premises and Outdoor Venues policy (CCSOS1) has also received comments, particularly from theatre operators, BID's and land owners relating to the new requirement for the sale of alcohol and late night refreshment must be limited to customers/audience members after 23:00 for premises within the West End . It is intended to retain this requirement within the CCSOS1 policy to ensure that these venues do not become late night destination venues and that the risk to the licensing objectives and cumulative impact is reduced. We have provided greater clarity the definition of a theatre and live sporting premises. We have also set out the understanding that thee larger venues will need to utilise their venue for other uses. We have provided clarity relating to this which will make it clear that the venues can be used for other activities as long as the premises primary use does relate to the intended operation types under this policy.

The Licensing Authority has also provided some further updates and amendments throughout the rationale for these policies so that there is greater clarity for applicants.

The premises use policies are included in Sections F within the revised Statement of Licensing Policy.

**16. Minor updates and changes across the statement to references to law, guidance or Council policies/strategies.**

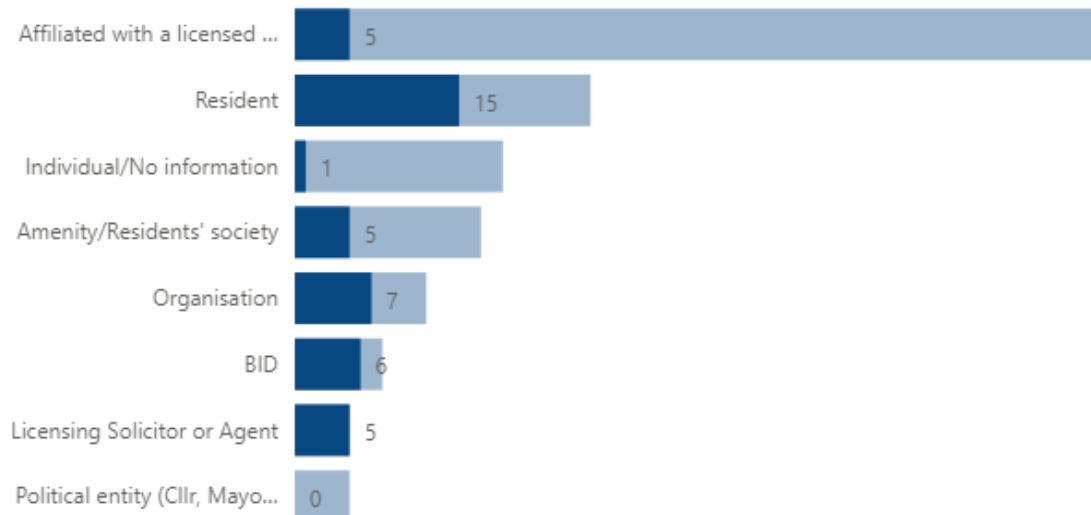
- 16.1 Since the current Statement of Licensing Policy (SLP) was revised there have been changes to law, strategies and Home Office Guidance. The SLP has references to a number of these throughout which now may be outdated or incorrect. It is intended to make minor revisions to reflect changes to legislation, strategies or guidance.

Number of responses and Demographics



16.2 The Licensing Authority received 44 responses that supported this proposal, no responses opposing this proposal and 120 who have no opinion/did not respond.

16.3 The breakdown of the demographic of the respondents who are supportive of this proposal are shown in the graph below.



### Summary of Responses

16.4 Comments on the proposal included:

- One respondent in support of this proposal stated that the Licensing Authority keep the decision not to expand the West End Cumulative Impact Zone under review.
- Another respondent advised that the Licensing Authority should keep its Statement of Licensing Policy under constant review due to the current pandemic and that the future is likely to remain uncertain for some time.

### **16R - Licensing Authority Response and Action:**

The Licensing Authority has taken the opportunity with this revision to amend and update information within the Statement of Licensing Policy. The amendments have been made across the document, included appendices. Minor amendments proposed by respondents to the public consultation have also been included throughout the document.

The Licensing Authority has also updated the relevant sections at the front of the policy associated with Westminster, Council Strategies and other legislation. This has included a section on the Councils expectations on licensed businesses associated with the Environment. These revised sections are not policies that require applicants to demonstrate that they meet them. They provide context to the Councils approach to licensing and the management of the City. We have also included a "How to use this policy" section to provide clarity over the hierarchy of the relevant policies and how they will be considered.

## **17. Other Comments/Issues**

17.1. At the end of the consultation online survey the respondent was asked where they wish to make any other comments relating to the proposed revision of the Council's Statement of Licensing Policy. A summary of these responses is provided below.

- 27% of the responses came from residents/amenity societies. There has been some acknowledgement of the need to protect the West End's economy in the context of the coronavirus pandemic. However, most residents and amenity societies that responded continue to emphasise the importance of effective enforcement of the policy.
- Some individuals have asked that arts and cultural venues should be permitted more flexibility.
- A couple of responses said that the consultation was not presented in an accessible format for all residents.
- 73% of responses came from those affiliated with a licensed business. Every response refers to the need for the relaxation to support the survival of Westminster hospitality sector during and after the pandemic.
- There is a strong ask from businesses for the council to ease the licensing policy until the pandemic starts to come to an end. While businesses have acknowledged the package of support over the summer of 2020 to support recovery, they feel the new policy does not take a long-term or strategic view of supporting the revitalisation of Westminster's licensed economy.
- A temporary COVID-19 policy that provides a relaxation of the Licensing Policy for a temporary period to support business has been put forward by a number of respondents associated with licensed premises, landowners and BID's.

17.2. A further question was posed to the respondents completing the online survey. They were asked if they wished to make any other comments or provide information associated with the application and determination process under the Licensing Act 2003. A summary of these responses is provided below.

- 73% of responses came from those affiliated with a licensed business. Most responses are akin to those to Question 31 – highlighting the importance of Westminster’s night-time and visitor economy and its contribution to the regional visitor offering. Many allude to the economic impact of the pandemic and the need for a more relaxed licensing policy protect businesses and jobs.
- The Soho Society has requested for a time limit to set on the publication of decision notices, explaining that they have had to wait up to 12 months in some instances for notices to be published. They have proposed that all decision notices should be published within 4 weeks of the committee hearing.
- The Covent Garden Community Association have explained that Licensing Committee hearings have limited discussions on whether venues will promote the licensing objectives, and discussions lean towards whether the premises is a specific type and its opening hours.
- A response from TLT Solicitors (representing a licensed business) suggested that the council’s approach to licensing rewards high-end and established chains that can afford specialist advice and consultancy to comply with Westminster’s licensing policy. Consequently, smaller independent operators are priced out as they cannot afford specialist advice. This goes against the Licensing Act 2003 which was implemented to allow anyone to apply in person with footing significant costs. The response expressed concern at the prevalence of standard conditions being applied across all licenses within any class, and that this has taken over from a substantive analysis of the need of such conditions in the first place.
- Capital Arches Group (a McDonald’s operator) have expressed some concern over the revised core hours policy, stating that the new policy will unfairly include Fast Food Premises. They believe the previous policy was fairer as it distinguished between venues that serve alcohol and those that do not and point out that the council’s own evidence base suggests that alcohol is the primary driver of noise related nuisances. Capitals Arches Group considers itself to be a responsible operator of fast food restaurants and believe that they reduce noise and disorder by acting as a dispersal unit for people and providing a safe and alcohol-free environment for those who do not consume alcohol. CAG also oppose the new Special Consideration Zone Policy as they consider it to be a way of introducing a Cumulative Impact Zone without going through the necessary legal frameworks.

### **17R - Licensing Authority Response and Action:**

The Licensing Authority understands the wider impacts and pressures that the pandemic is having on the hospitality sector, businesses and the City. The Council are committed to supporting businesses to recover from the impact of COVID-19 and has already done a great deal in this area, including the development of the Councils movement strategy and providing significant public highway space for outside tables and chairs.

However, at this time the Licensing Authority is not minded to create a specific COVID-19 related policy approach that would temporarily relax the policies within the Statement of Licensing Policy.

The Licensing Authority would welcome appropriate new applications for businesses that want to start within the City. We also welcomes applications that seek to vary an existing licences current terms and conditions for the purpose of providing greater flexibility for that business to operate during stringent COVID-19 restrictions on a temporary basis. These applications will be considered on their own merits and the authority will have regard to any representations that are made either in support or against. The Licensing Authority has already permitted a number of variation applications that have sought to vary their licences on a temporary basis to provide greater flexibility to manage their venue.

A number of respondents have raised concerns associated with the change to the Planning Use Classes, particularly relating to Class E which includes shops, offices, restaurants and cafes. This change in the use class now means that a building with planning permission for commercial, business and service uses (class E) can change uses without the need for planning permission. There were concerns raised by resident groups and businesses that the licensing process may become the only route for residents to raise concerns associated with that change of use. The Licensing Authority has highlighted this as a possibility within "Related Strategies and Initiatives" within Section B and also within the Restaurant Policy (RTN1) in Section F. Planning and Licensing are distinctly different regimes and the Licensing Authority will only consider representations that relate to the licensing objectives.

## **18. Legal Implications**

- 18.1 The council must review and publish a revised Licensing Policy before the expiry of the current 5-year period, by virtue of sub-section 5(1) of the Licensing Act 2003 which states that:

"Each licensing authority must in respect of each five-year period—

- (a) determine its policy with respect to the exercise of its licensing functions, and
- (b) publish a statement of that policy before the beginning of the period.”  
(emphasis supplied).

18.2 It would be unlawful for the Licensing Authority to fail to comply with that mandatory requirement.

18.3 As has been stated in the body of the Report the Statement of Licensing Policy must be reviewed and approved by Full Council. Once adopted the Licensing Authority must have regard to this SLP in carrying out its licensing functions under the Act, in addition to having regard to the Secretary of States’ Guidance which is issued from time to time under Section 182 of the Act.

## **19. Financial and Staffing Implications**

19.1 There are no financial or staffing implications as a result of this report.

## **20. Equalities Impact Assessment**

20.1 The council, when taking decisions in relation to any of its functions, must comply with its public sector equality duty as set out in Section 149 of the Equality Act 2010 in relation to persons who have protected characteristics.

20.2 Equality and diversity is not a parallel process or something to think about once a year. It is a fundamental part of improving services for everyone. It is nothing to do with ticking boxes or bureaucracy, and everything to do with making Westminster a place where anyone can be happy to live or work. It is central to delivering high quality customer services in the heart of London. We identify and actively address inequality, where evidence shows that it exists.

20.3 This diversity and the changing nature of Westminster’s population makes Westminster a culturally and socially rich city, which benefits from the different experiences, perspectives and respect for others that this diversity brings.

20.4 The council's six equality objectives are:

20.4.1 Minimise loneliness, maximise independence and improve mental and physical wellbeing of older people.

20.4.2 Better understand the needs of our diverse communities to improve our approach to tackling discrimination.

20.4.3 Communities lead healthy lifestyles through increased participation in sport and physical activity.

20.4.4 Promote equality of opportunity across the city by tackling barriers to employment.

20.4.5 Create an environment where all children have an equal opportunity to succeed in life.

20.4.6 Improve the diversity of our workforce.

20.5 Officers have carried out an Equality Impact Assessment and as a result of that assessment there are no anticipated impacts as a result of the proposed revisions of the Statement of Licensing Policy and Council's ability to meet its duties under the Equality Act.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**  
Mr Kerry Simpkin, Head of Licensing, Place & Investment Policy  
Innovation and Change  
Tel: 07583 108491, Email: [ksimpkin@westminster.gov.uk](mailto:ksimpkin@westminster.gov.uk)

## APPENDICES

- Appendix 1 – Consultation Submissions and Licensing Authority response.
- Appendix 2 - Revised Statement of Licensing Policy
- Appendix 3 - Proposed Revisions of Westminster City Councils Statement of Licensing Policy - Consultation Document – 30<sup>th</sup> November 2020

## BACKGROUND PAPERS:

- Westminster City Councils Statement of Licensing Policy – Effective 7<sup>th</sup> January 2016
- Licensing Act 2003
- Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003 – April 2018
- Responses to the Consultation on the Proposed Revisions to the Councils Statement of Licensing Policy received between the 12<sup>th</sup> October and 18<sup>th</sup> October 2020.
- Power BI Licensing Policy and Cumulative Impact Assessment Consultation Response Dashboard reports.

*NB: For individual Cabinet Member reports only*

For completion by the **Cabinet Member** for Public Protection and Licensing

### Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: \_\_\_\_\_

State nature of interest if any

.....

.....  
*(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I have considered the revised Statement of Licensing Policy under the Licensing Act 2003 and recommend to Full Council that the Policy is approved and adopted in accordance with section 5 of the Licensing Act 2003.

Signed .....

Cabinet Member for Public Protection and Licensing

Date .....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

.....  
.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.