



City of Westminster

Proposed revisions to Westminster City Council's Statement of Licensing Policy - Delivery of alcohol and/or late-night refreshment to customers at home or their workplace and the provision of licensable activities in shops.

Section 5, Licensing Act 2003

14th June 2021

1. Introduction

- 1.1 There has been a significant increase in the offer of food and alcohol deliveries from existing licensed premises to customers in their homes or at their place of work. Deliveries themselves are not regulated. However, the sale of alcohol and the provision of hot food and hot drink between the hours of 11pm and 5am (late night refreshment) are licensable. A business that offers the sale of alcohol at any time for delivery and/or provides late night refreshments between 11pm and 5am will require a premises licence from the Council. The ability to deliver alcohol and late-night refreshment has become a key ancillary element to the primary operation of licensed premises.
- 1.2 The delivery of food and drink from existing licensed premises has been an essential service for existing licensed premises during the COVID-19 pandemic. A large number of licensed premises opted to provide a takeaway and delivery service to their customers during lockdowns. There significant growth in a delivery offer from licensed premises is expected to remain once restrictions are lifted and the pandemic ends. The use of phone applications to facilitate orders and the availability of third-party delivery services has provided a cost-effective option for licensed premises to sell their food and drink to customers at home.
- 1.3 In addition to the increase in ancillary deliveries from existing premises, there has been a growing number of applications for delivery centres where food and drink is stored, picked and then delivered to customers at home or work via either their own delivery personnel or via a third-party delivery service. Alcohol is often offered alongside unregulated items, such as groceries for delivery. Delivery centres require regular deliveries to them to enable to flow of goods to customers. The delivery of goods to delivery centres generated significant concern regarding the time and day of delivery, the noise nuisance from refrigeration vehicles and the noise nuisance from the unloading of these vehicles.
- 1.4 There has been a growing trend across the country of consolidated food preparation and delivery centres which only provide the delivery of food and drink to people in their homes. They do not provide a walk-in service for customers. These food preparation and delivery centres often will operate beyond 11pm and in some cases offer the delivery of alcohol alongside the delivery of the food. These delivery centres are linked to their own or a third-party website or phone application that customers can order from.
- 1.5 The delivery of food and drink can create additional impacts on the licensing objectives under the Licensing Act 2003 and therefore the Council has a duty under the Act to ensure that licensed premises which do so operate in a way that does not impact these objectives. Residents have reported increased levels of public nuisance around venues that provide deliveries and at times when deliveries are being made customers. Public nuisance is often related to noise from delivery personnel congregating outside the premises or from their delivery vehicles. Other issues of public nuisance raised with the Council have included littering, obstructing the highway and street urination by delivery personnel. The Council is committed to supporting licensed businesses within Westminster to grow and diversify in a safe, responsible, and positive way that promotes the licensing objectives.
- 1.6 The sale of alcohol is specifically regulated so that it is illegal to sell alcohol to anyone under the age of 18. Licensed premises are very familiar with the licensing objective concerning the protection of children from harm. Premises must have age verification measures for customers who wish to purchase alcohol within their premises. The same age verification measures must also be in place for the delivery of alcohol to ensure the customer who

ordered the alcohol for delivery is over the age of 18. This provides an onus on delivery personnel to ensure that the licensed premises meet their legal and licensing obligations and undertake age verification checks before the alcohol is handed to the customer.

- 1.7 The Council's Statement of Licensing Policy does not currently include a policy approach for the delivery of alcohol or late-night refreshment. Each application relating to the delivery of licensable activities has been considered on its own merits, having regard to the operation of the premises, any concerns that have been raised by residents or responsible authorities and whether the application will promote the licensing objectives. The delivery of alcohol and food has become a key service that licensed businesses want to provide to their customers. However, the operation of delivery services can have a significant impact on the licensing objectives and cause significant detrimental issues to residents living around the premises or at the point of delivery.
- 1.8 The Council is therefore proposing to revise its Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 (the Act) to introduce new and amended policies that will set out the Council's approach for determining applications associated with the delivery of alcohol and/or late-night refreshment to customers at home or at their place of work and for shops providing licensable activities. The first policy will focus on the Licensing Authority's approach to businesses that wish to provide a delivery service for alcohol and/or late-night refreshment, either operated by them or through a third party, which is ancillary to the main use of the premises, e.g. a restaurant. This policy will only apply if the applicant or licensee intends to provide a delivery service which is ancillary to their main premises use. The second policy will be for businesses operating as a delivery centres, where their primary use will be to provide a delivery service, that includes alcohol and/or late-night refreshment to customers at home or at their workplaces.
- 1.9 Whilst shops are currently referred to within the Off-Sales of Alcohol Policy OS1, that policy does not reflect the other licensable activities that shops can provide. The current Off-Sales Policy relates to the function of selling alcohol off the premises and not the specific premises use which the other policies are based around. It is proposed to add a new policy for shops that wish to provide licensable activities as an ancillary function or, in the case of off licences as their main use. The proposed new policy for shops will set out the Council's existing approach to determining applications for off licences but also expand the considerations to other types of licensable activities that can be offered within shops. With the introduction of the new shops policy and the proposed delivery centre policies it is proposed to remove the Off-Sales of Alcohol Policy as this would no longer be required.
- 1.10 In considering this proposed revision the Licensing Authority, in accordance with section 5 (6D) of the Act, has had regard to the Council's Cumulative Impact Assessment that was published in October 2020 in accordance with section 5A of the Act.¹
- 1.11 The proposed revisions to the Council's Statement of Licensing Policy are set out in detail below. Views and comments are only sought in relation to the proposed revisions set out within this consultation document.

¹ <https://www.westminster.gov.uk/licensing/licensing-policy-and-strategy/cumulative-impact-assessment>

2. New Policies

Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1

- 2.1 It is proposed to introduce a new policy for premises that intend to provide a delivery service for alcohol and/or late-night refreshment as an ancillary function to the main premises use. Sometimes this will not be clear from the application, although there will be an expectation that applicants would indicate their intention to provide a delivery service to their customers within their operating schedule. With the introduction of this new policy the Licensing Authority and other responsible authorities are likely to enquire with applicants whether a delivery services will be provided or is intended to be provided in the future. This will be necessary to ascertain which policies will apply and to ensure that consideration is given to the operation of the premises if licensed and its potential impact on the licensing objectives. This policy is intended to be considered alongside the relevant premises use policy when determining applications that intend to provide an ancillary delivery service for alcohol and/or late-night refreshment.
- 2.2 Applications that intend to provide alcohol and/or late-night refreshment for home delivery as the primary function of the premises operation will not be considered under this policy. Applications for these premises, commonly referred to as delivery centres, will be considered under a dedicated Delivery Centre policy.
- 2.3 The draft policy for ancillary alcohol and/or late-night refreshment delivery services is set out below.

Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1

- A. Applications for premises that intend to sell alcohol and/or late-night refreshment for delivery to customers at a residential or workplace address, which is ancillary to the main use of the premises, will generally be granted subject to not being contrary to other policies within this Statement of Licensing Policy and that it meets the criteria set out below:***
- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1***
 - 2. The hours when delivery will take place is within the relevant Core Hours for that premises use,***
 - 3. The delivery of alcohol and/or late-night refreshment to customers at their residential address or workplace will be ancillary to the main premises use,***
 - 4. The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.***
 - 5. That the applicant will,***
 - a. Implement their own age verification procedures for the sale and supply of alcohol for their delivery staff and ensure that they receive regular training in the company's age verification procedures, and/or***
 - b. ensure that any third party, to which they have contracted the delivery of alcohol and/or food has sufficient age verification***

procedures in place for the sale of alcohol and has regular training for its delivery personnel on their age verification procedures.

6. *That the applicant will,*
 - a. *implement their own procedures and provide mitigation to reduce the risk that their delivery service and delivery personnel will create public nuisance either at the premises where the delivery originates and/or at the delivery destination, and/or*
 - b. *ensure that any third party, to which they have contracted their delivery service have sufficient procedures and mitigation in place to ensure that their delivery personnel do not create public nuisance either at the premises where the delivery originates and/or at the delivery destination.*

B. *Applications for the ancillary delivery of alcohol and/or late-night refreshment for delivery to customers at a residential or workplace address that do not meet the criteria in Clause A will be considered on their own merits, subject to other relevant policies within this statement, and with regard to the following:*

1. *The demonstration of compliance in the requirements of policies CD1, PS1, PN1 and CH1 associate with the likelihood of the effect of the grant of the licence for the delivery of alcohol and/or late-night refreshment on the licensing objectives,*
2. *If the application is located within a Special Consideration Zone, have they demonstrated that they have taken account of the issues identified in that area and provided adequate mitigation,*
3. *Whether the premises are located within a predominantly residential area*
4. *Whether the delivery personnel are directly employed by the applicant*
5. *The contractual agreements with the use of third parties to carry out the delivery of alcohol and/or late-night refreshment from the premises,*
6. *The operation and management of the proposed delivery service from the premises,*
7. *The proposed hours for the operation of the delivery service,*
8. *The types of vehicles that will be used for the delivery of alcohol and/or late-night refreshment and whether they will likely create public nuisance,*
9. *The history of the premise's operation in relation to any impact on the licensing objectives,*
10. *What measures the applicant or the third party providing the delivery service has put forward to mitigate the specific risk of public nuisance by the operation of the delivery service at the premises or at the end point of delivery,*
11. *What measures and processes the applicant or the third party providing the delivery service has put forward to mitigate the risk from the delivery of alcohol to children to ensure that they are protected from harm.*

C. *For the purposes of Clause B. 3. reference to 'a predominately residential area' means an area of the City in which housing is the predominant use.*

D. *For the purposes of this policy premises uses are defined within the relevant premises use policies within this statement.*

Reasons for Policy DEL1

- X.1 *It is recognised that licensees may seek to provide a delivery service, either directly operated by them or provided via a third party. The availability of dedicated platforms for the ordering of food and drink has made it simpler for the customer to find what they want and to order it directly without leaving their home or place of work. This growing market has meant that a large number of licensed premises may now wish to provide food and drink deliveries as an ancillary activity to the main use of the premises. This market provided a valuable lifeline to many premises during periods when they were affected by COVID-19 restrictions.*
- X.2 *The sale and delivery of hot food and drink before 11pm and after 5am is not a licensable activity and therefore this policy would apply to premises that operate outside of these hours. However, the policy will apply to all premises that intend to provide alcohol for delivery no matter what time of the day.*
- X.3 *This policy is intended to apply to premises that provide a delivery service for alcohol and/or late-night refreshment which is ancillary to the main use of the premises. For example, this policy would apply to an existing licensed premise that intended to provide an alcohol and late-night refreshment delivery service from their venue if to enable it a variation of their licence was necessary. However, premises that intend to primarily operate as a delivery hub, with or without an ancillary or customer walk in retail element will not be considered under this policy. These types of operations will instead be considered under the Delivery Centre Policy DC1.*
- X.4 *The Licensing Authority is concerned with the growing levels of residential complaints and issues associated with public nuisance that is either generated at or in the general vicinity of the licensed premises where deliveries are collected or at the end destination where the delivery is made. Complaints often relate to noise from delivery personnel waiting around the licensed premises or from their delivery vehicles. Applicants must consider the potential impact of noise nuisance from delivery personnel and their vehicles at the licensed premises or at the end destination. Appropriate waiting areas inside the licensed premises should be considered to prevent delivery personnel congregating outside the venue.*
- X.5 *The applicant will be expected to consider where delivery vehicles or cycles will be parked or stored when the delivery service is being operated or when the premises is closed. Applicants should ensure that the public highway is not obstructed and that delivery vehicles are not in contravention of the Road Traffic Act. If the applicant intends to use a specific area for the delivery vehicles to wait, then this should not be located in a place that is likely to cause nuisance to residents. Premises that have residential properties immediately above them or near to a location where delivery vehicles are to wait must consider the impact that this can have on residents, especially if the operation of the delivery service will be late at night when roads are quieter. Applicants in these circumstances may consider the use of cycles for local deliveries or electric vehicles rather than vehicles that can generate engine noise.*
- X.6 *The Council is committed to making Westminster a leader in tackling climate change and improving air quality. One of the key principles of the Council's vision for a City for All is to make Westminster greener and cleaner. We want to be known for leading the way in tackling climate change and improving air quality. We want our residents' children to inherit not just a more equitable, better, and healthier living*

environment but also a working model of how a global city can successfully take on the environmental challenges facing the next generation. Some areas of the City have unacceptably high levels of pollution. The Council is working tirelessly to ensure air quality meets the legal limits to enable all people to live well. Applicants who will commit to the use of cycles or no emission vehicles, such as electric cars and vans will help to reduce emissions within the City.

- X.7 *Although the use of non-emission delivery vehicles will not warrant an exception to any other policies it will demonstrate a commitment from the operator to support the Council's vision to reduce pollution, improve air quality and reduce the carbon footprint of businesses. These non-emission vehicles often generate far less noise than polluting vehicles and therefore can also provide an element of mitigation towards the prevention of public nuisance.*
- X.8 *The Council's recently adopted City Plan prioritises carbon reduction through reduced traffic and congestion and largely reflects the London Plan's approach to facilitate safe, clean, and efficient deliveries. London Plan policies seek to reduce number of trips, coordinate the provision of infrastructure and facilities to manage freight at an area-wide level, support new consolidation and distribution facilities, enable and encourage off-peak deliveries to reduce congestion, require micro-consolidation facilities at large development, enable sustainable last-mile movements, encourage modal shift from road to water or rail. In addition, the City Plan also requires that all collection and delivery needs be fully met within a development site or, where this is not possible, that they are carried out in a way that minimises adverse impacts on other highway and public realm users and activities.*
- X.9 *The Council's Freight, Servicing and Deliveries Strategy and Action Plan (FSD) sets out a number of measures to develop the City Plan policies further into action for implementation over the lifetime of the City Plan. The FSD sets out a total of 55 measures which are structured around three themes:*
- *Reducing. Reducing the number of trips generated by freight, servicing and delivery activity, the time spent in the city and the impact on the local road network and environment.*
 - *Remodelling. Making use of alternative modes (including rail and water) and increasing the uptake of zero emission vehicles, wherever possible, and enhancing the infrastructure required to support their use.*
 - *Retiming. Making best use of an extended delivery, collection and servicing operating window in a managed monitored and enforced way, utilising non-peak hours.*
- X.10 *Applicants should consider the packaging that is used for any products that are being delivered either to their premises or from it. The use of packaging made from recyclable materials is highly recommended and operators are encouraged to avoid the use of single use plastic packaging.*
- X.11 *Whilst protecting the environment is not a licensing objective, we feel strongly that responsible businesses should be incorporating measures to reduce their impact on the environment and protect our residents. The requirements of the Council's City for All vision for a greener and cleaner city, its City Plan policies and the associated FSD Strategy and Action plan are not binding for considering and determining*

applications under the Licensing Act 2003. However, the Council will continue to promote these key principles to improve air quality, reduce the impact on the environment and protect residents. Applicants that consider the principles of the City Plan and FSD along with the requirements of this policy will go towards demonstrating that they are focused on how their business will contribute to the Council's wider City for All vision to create a greener and cleaner Westminster.

- X.12 Public nuisance does not just relate to the noise generated by delivery personnel and their vehicles. Littering in and around locations where delivery personnel congregate can also cause public nuisance and generate additional street cleaning for the Council. Applicants will be expected to ensure that delivery personnel do not litter or create unnecessary waste. Applicants can ensure that this is done through appropriate information and training to delivery personnel, the provision of a waiting area inside the licensed premises for delivery personnel, adequate bins outside the premises and additional street cleaning around the premises by the licensee.*
- X.13 The applicant should ensure that delivery personnel have access to toilet provisions within the licensed premises. It is not acceptable that delivery personnel urinate on the street or in private spaces in and around the licensed premises. The applicant must ensure that delivery personnel are made aware of the availability of toilet facilities at the premises and that urinating in the street is not acceptable.*
- X.14 Applicants that provide their own delivery service will be expected to have a robust disciplinary process for staff carrying out the delivery function who are found to generate noise, drop litter or urinate on the street. Applicants that contract out the delivery service to a third party must ensure that as part of the contractual agreement, delivery personnel working for or under the direction of that third party can receive disciplinary action for actions that risk or impact public nuisance.*
- X.15 Applicants who employ their own delivery staff are likely to have far greater control to ensure that the licensing objectives are not negatively impacted upon. Therefore, the Licensing Authority will consider whether the delivery service is being delivered by the applicant or provided by a third party and their ability to manage any risk associated with the licensing objectives when determining that application. Applicants that do provide their own delivery service, with sufficient measures in place to promote the licensing objectives are likely to be considered more favourably than those using third party delivery companies.*
- X.16 The Licensing Authority and the Metropolitan Police Service have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks, the increased possibility for alcohol to be consumed in open spaces or parks, as well as the personal safety of drivers when having to refuse to deliver the alcohol to the customer due to intoxication or failed age verification.*
- X.17 Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third-party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.*

- X.18 *There are concerns that customers can use landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces or parks. The risk being that this may lead to an increase in crime and disorder, public nuisance or a possibility that underage persons can gain access to alcohol.*
- X.19 *Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face to face ID verification is vital in mitigating some of this risk.*
- X.20 *While the Licensing Authority recognises this is a growing area of business, new or variation applications that include the delivery of alcohol off the premises will be subject to increased scrutiny.*

New - Shops Policy SHP1

- 2.4 The current Off Sales of Alcohol Policy OS1 currently applies to shops, stores and supermarkets that sell alcohol for consumption off the premises. However, shops can provide a variety of other licensable activities that are ancillary to the sale of goods or provision of service that they provide.
- 2.5 It is the Council's intention to remove the Off Sales of Alcohol Policy OS1 and replace it with a new Shops Policy. This new policy will apply to any premises whose primary function is the retail sale of goods or the offer of services by payment.

Shops Policy – SHP1

- A. Applications for a shop outside the West End Cumulative Impact Zone will generally be granted subject to:**
- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.**
 - 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1.**
 - 3. The operation of any delivery services for alcohol meets the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.**
 - 4. The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone.**
 - 5. The application and operation of the venue meets the definition of a shop in Clause C.**
- B. Applications for a shop inside the West End Cumulative Impact Zone will generally be granted subject to:**
- 1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1.**
 - 2. The hours for licensable activities are within the Council's Core Hours Policy HRS1.**

3. ***The operation of any delivery services for alcohol meets the Council's Ancillary Alcohol and/or Late-night Refreshment Delivery Service Policy DEL1.***
 4. ***The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone.***
 5. ***The application and operation of the venue meets the definition of a shop in Clause C.***
- C. ***For the purposes of this policy a shop will include premises where the primary activity is to provide the retail sale of goods or to provide services to customers upon payment. The sale of alcohol off for consumption off the premises can form the primary function of the premises. However, all other licensable activities, including the sale of alcohol for consumption on the premises must be ancillary to the main use of the premises as a shop.***

Reasons for Policy SHP1

- X.21 *Westminster offers an unparalleled range of shops ranging from small units to large department stores. The West End and Knightsbridge are International Centres providing London's prime retail destinations offering specialist and comparison retail of regional and national importance that draws in international visitors. The West End International Centre includes Oxford Street, Regent Street and Bond Street, while Knightsbridge International Centre includes Brompton Road and extends beyond the city boundary in the Royal Borough of Kensington and Chelsea. Westminster attracts international retail brands to our City due to its unique historic character and the large number of domestic and international visitors.*
- X.22 *Recent changes in the Use Class Order under planning legislation recognise that to ensure long-term sustainability, town centres and high streets need to be able to adapt to changing consumer demands and behaviours. These changes combine several town centre uses under a new Class E (commercial, business and service uses) with the aim of enabling a shift towards mixed-use and multi-purpose spaces.*
- X.23 *The Council's City Plan and this policy support the evolution of Westminster's town centres and high streets as multifunctional commercial areas where a mix of commercial uses provide activity at street level and creates a welcoming, attractive and healthy environment for people to shop, access services, work and spend leisure time.*
- X.24 *The Licensing Authority recognises that shop operators need to continually evolve to compete with online retailers as well as keep existing customers and attract new ones into their stores. As part this evolution shops often seek to provide other activities within their premises that will help them achieve this. This can include activities that are licensable.*
- X.25 *The Licensing Authority is keen to support shops who wish to offer ancillary licensable activities to the main purpose of their shop. However, the Licensing Authority will expect shop operators to apply for licensable activities that will be operated in a way that will promote the licensing objectives and not impact residents. Operators must manage the provision of licensable activities in a*

responsible way so as to ensure that those activities do not adversely change the character of the premises main use as a shop.

- X.26 *This policy is intended to apply to premises offer the retail sale of goods or provide services to customers as the primary use of the premises. Common examples of a premises that would be considered under this policy will include traditional off licences, speciality stores, supermarkets, department stores, general stores, boutique, outlets, delicatessens, butchers, grocers, hairdressers, massage parlours, or anything of a similar nature where the primary use is the purchase of goods by customers or to provide a service. Cafes, coffee shops or similar venues providing food for takeaway or for consumption on the premises will be considered under either the Fast-Food Premises or Restaurant policies. The sale of alcohol for consumption off the premises can form the primary function of the premises, e.g. traditional off licences. However, all other licensable activities, including the sale of alcohol for consumption on the premises must be ancillary to the main use of the premises as a shop.*
- X.27 *The Licensing Authority will generally grant applications that are within Core Hours as set out in the policy HRS1, subject to not being contrary to other policies in the licensing statement. Revised Guidance recommends that shops selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours, unless there are good reasons, based on the licensing objectives, for restricting those hours. This is in the context of paragraph 10.13 of Revised Guidance which states that licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on local knowledge and in consultation with responsible authorities.*
- X.28 *The hours when shops can start to sell alcohol for consumption off the premises will be specifically considered when determining applications. This is because problematic street drinkers, and other people who are seriously addicted to alcohol, may be drawn to shops that sell alcohol earlier in the morning and create public nuisance.*
- X.29 *There are problems of street drinking found across the city. While there are some areas with recurring problems of street drinking ‘schools’, they also crop up in different areas at different times and seasons. Shops selling alcohol can be a focus of antisocial behaviour, disorder, and disturbance. These include the day-long consumption of alcohol on the street and in open spaces by groups of drinkers who cause various types of public nuisance and engage in antisocial behaviour. In the Victoria Special Consideration Zone, for example, new licences for the off sale of alcohol will be considered in the light of the problems of street drinking in that area and may be restricted in their numbers and have conditions imposed on their management and supervision.*
- X.30 *If there are significant concerns associated with street drinkers in the area the Licensing Authority may impose conditions that there should be no sale of alcoholic beverages over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 5.5% alcoholic content by volume). Other conditions may be imposed directed at reducing problematic street drinking. There will be concerns over irresponsible drink promotions that do not follow best practice, that*

would appeal to underage drinkers or street drinkers or encourage excessive consumption.

- X.31 *Some shops selling alcohol in Westminster's commercial and residential areas have been a focus for anti-social behaviour, disorder and disturbance. This has been caused by street drinkers and underage drinkers who have tried to obtain or have obtained alcohol from such premises. Due to these concerns over crime, disorder and disturbance, the Licensing Authority will not, as a general rule, grant applications for the 24- hour sale of alcohol for consumption off the premises for premises outside the West End Cumulative Impact Zone. It will consider seriously any representation made by the police, other responsible authorities, and relevant representations from other persons and will consider Policy HRS1 in determining applications.*
- X.32 *The Council has introduced a controlled drinking zone across the whole city, by making Orders to give police powers to stop street drinking and seize alcohol and receptacles under the powers of the Criminal Justice and Police Act 2001. Originally it introduced such a zone in the south of the city centred on Victoria. It extended this zone northwards in April 2004, acknowledging that the problems were widespread and that the awareness of the boundary of the zone gave rise to drinkers congregating just outside it. Short term Dispersal Zones have also been used in various parts of the city to break up street drinking "schools" and disrupt patterns of street drinking. These Orders continue to be in force under the Crime and Policing Act 2014.*
- X.33 *Where the police or others make representations against the grant of a further licence for off-sales, because of their serious concerns over problems of street drinking or late-night disorder associated with the off sale of alcohol in the area, the Licensing Authority will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. This is to hinder both underage drinkers and problematic street drinkers masking their consumption by purchasing from a series of premises and using a number of premises to try to buy alcohol if they are refused in one.*
- X.34 *Where there are representations on problems of late-night disorder (these are generally within the West End Cumulative Impact Zone) the hours for the sale of alcohol on and/or off the premises may be conditioned to be less than core hours.*
- X.35 *In appropriate cases, the hours of selling alcohol for consumption off the premises may be conditioned to cease before the terminal hour of premises in the vicinity supplying alcohol for consumption on the premises. This is to discourage the consumption of alcohol on the streets after premises in the vicinity which sell alcohol for consumption on the premises have closed.*
- X.36 *Whilst it is likely that shops providing licensable activities beyond core hours are likely to add to cumulative impact in the West End Cumulative Impact Zone the Licensing Authority is not, at this time, going to implement a general presumption against new licences for shops, or restrict their hours below the current core hours as set out within the Council's Core Hours Policy HRS1. The restriction of premises to core hours and the imposition of conditions can be an effective means of promoting the licensing objectives. However, this will be considered on a case by case basis.*

- X.37 *The proliferation of premises for the sale of alcohol off the premises is of concern if it leads to consumption of alcohol on the streets or being carried into premises licensed to sell alcohol on the premises. In light of the evidence it has considered, the Licensing Authority is concerned that alcohol loading from off-licence sales is a significant problem, particularly within the West End and adversely affects the licensing objectives.*
- X.38 *It is accepted that shops may wish to include areas within their premises where customers can eat and drink. The sale of alcohol on the premises must be an ancillary function to the main use of the premises. Applications that include the sale of alcohol for consumption on the premises will need to ensure that adequate measures are put forward to ensure that this activity will not adversely impact the licensing objectives. Applications within the West End Cumulative Impact Zone that wish to sell alcohol for consumption on the premises beyond 9pm will also need demonstrate that they will not add to cumulative impact in the area.*
- X.39 *The provision of entertainment, such as live music can provide a significant draw to a premises. Entertainment can add to the experience of shopping at the premises which elevates it above its competitors. Shop operators who wish to provide regulated entertainment on their premises must ensure that this is an ancillary function to the main use of the premises as a shop. Adequate measures must be included in the applications operating schedule to ensure that the entertainment will promote the licensing objectives. Particular attention will need to be given to the impact of noise and ensure public safety. Entertainment of an adult nature must not be provided in shop that is often frequented by children or families. Applications wishing to provide entertainment that is directed at adults must ensure that children are protected and access to children is restricted.*
- X.40 *The sale of alcohol from shops can be a small part of their overall business or, in the case of traditional off licences, can be their primary products. Applicants will be expected to ensure that the sale of alcohol is adequately managed to ensure that alcohol is not sold to anyone under the age of 18. The Licensing Authority will expect applicants to implement think 21 or think 25 policies associated with age verification. Staff training is also extremely important to reduce the risk that alcohol will be sold illegally. The Licensing Authority will take a robust approach to any licensee who knowingly or negligently sell or enables the sale of alcohol to children.*
- X.41 *The Licensing Authority will impose, where appropriate to promote the licensing objectives, conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18, Licence holders of smaller outlets need to have sufficient day to day control of operations. They can be held responsible for breaches of the licence and that they have not provided adequate staffing and training.*
- X.42 *The sale of alcohol to underage young people, which, apart from being a criminal offence, gives rise to disorder, public nuisance and concerns over public safety and harm to children. The sale of alcohol to people who consume it on the way to other premises gives rise to problems of drunkenness and disorderly behaviour.*
- X.43 *The Council and police will continue to use young people for test purchasing of alcohol and CCTV, which has proved its usefulness in prosecutions for unlawful sales*

of alcohol. The likely consequences of review of licences for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder and, where appropriate, revocation.

- X.44 *The Licensing Authority will expect applications to set out within their operating schedule how the premises will operate, where licensable activities will take place, what conditions and mitigation measures they propose to ensure that the premises promotes the licensing objectives, the training procedures and staffing levels within the premises and the types, quantities and whether alcohol is high strength; and where and how alcohol will be securely stored.*

New – Delivery Centre Policy DC1

- 2.6 A new type of business model surrounding the delivery of food and drink has emerged which is not currently addressed within the Council's current Statement of Licensing Policy. The Council has been receiving applications for premises that will operate as a delivery centre for food and drink to customers in the local area. Often these businesses will provide a website or phone application that customers can use to order food and drink which can be delivered within an hour or scheduled for a specific delivery time.
- 2.7 With the growing concern surrounding delivery services within the City generating public nuisance and the need to ensure children are not able to purchase alcohol the Council is proposing to create a new policy specifically for these types of premises. The proposed Delivery Centre Policy sets out the Council's approach to determining applications where the primary function of that licence is to permit the sale of alcohol and/or late-night refreshment from that premises via a delivery service to customers either in their homes or at a place of work.

Delivery Centre Policy DC1

- A. *Applications for a delivery centre outside the West End Cumulative Impact Zone will generally be granted subject to:***
- 1. *The application meeting the requirements of policies CD1, PS1, PN1 and CH1,***
 - 2. *The hours for licensable activities are within the Council's Core Hours Policy HRS1,***
 - 3. *The applicant has taken account of the Special Consideration Zone Policy SCZ1 if the premises are located within a designated zone,***
 - 4. *The premises are not located in a predominantly residential area, and***
 - 5. *The application and operation of the venue meets the definition of a delivery centre in Clause C.***
- B. *Applications for a delivery centre within the West End Cumulative Impact Zone will generally be granted subject to:***
- 1. *The application meeting the requirements of policies CD1, PS1, PN1 and CH1,***
 - 2. *The hours for licensable activities are within the Council's Core Hours Policy HRS1,***

3. ***The applicant has demonstrated that they will not add to cumulative impact within the Cumulative Impact Zone,***
 4. ***The premises are not located within a predominantly residential area, and***
 5. ***The application and operation of the venue meets the definition of a delivery centre in Clause C.***
- C. *For the purposes of this policy a delivery centre is a premises that's primary function is to temporarily store alcohol and/or to prepare hot food and hot drink, so that it is available when ordered for transportation to a customer's home, workplace or other residential or workplace location.***
- D. *For the purposes of Clause B. 4. reference to 'a predominately residential area' means an area of the City in which housing is the predominant use.***

Reasons for Policy DC1

- X.45 *There has been a growing interest from businesses seeking to find a location within Westminster where they can store and distribute alcohol and/or late-night refreshment to customers at home. The operation of the delivery service to customers will be the primary use of the premises. In some cases, applicants may offer an ancillary retail element to their operation for click and collect customers. This policy is only intended to apply to applications where the primary use of the premises is the storage, preparation, and delivery of alcohol and/or late-night refreshment to customers residential properties or places of work. Where a business intends to provide a delivery service as ancillary to their main operation, for example a traditional off licence then they will be considered under the relevant premises use and the ancillary alcohol and/or late-night refreshment delivery service policies.*
- X.46 *The Licensing Authority is concerned with the potential impact of the operation of distribution or delivery centres within residential areas. The Council has seen growing levels of complaints and issues associated with the impact of delivery services within the City. Most complaints relate to the noise generated by delivery personnel and their vehicles. The Council has also had complaints about littering and street urination by delivery personnel.*
- X.47 *Delivery centres will require regular deliveries to them to maintain stock levels for the delivery of those goods to residents. These centres are likely to generate additional noise depending on the time and day of the delivery, the types of vehicles that are used for delivering goods to the centre e.g. refrigeration vehicles and how they are unload and loaded.*
- X.48 *Applicants that intend to operate a delivery centre that provides licensable activities must consider the likely impact of their operation on residents within the vicinity of the premises, where delivery personnel gather or park their vehicles and when completing their delivery. Applicants have a responsibility to ensure that they promote the licensing objectives. Applicants will be expected to specifically explain the operation of their distribution and delivery service and how they will prevent or mitigate the impact on the licensing objectives.*
- X.49 *Applicants that provide their own delivery service will be expected to have a robust disciplinary process for staff carrying out the delivery function who are found to*

generate noise, drop litter or urinate on the street. Applicants that contract out the delivery service to a third party must ensure that as part of the contractual agreement, delivery personnel working for or under the direction of that third party can receive disciplinary action for actions that risk or impact public nuisance.

- X.50 *Applicants who employ their own delivery staff are likely to have far greater control to ensure that the licensing objectives are not negatively impacted upon. Therefore, the Licensing Authority will consider whether the delivery service is being delivered by the applicant or provided by a third party and their ability to manage any risk associated with the licensing objectives when determining that application. Applicants that do provide their own delivery service, with sufficient measures in place to promote the licensing objectives are likely to be considered more favourably than those using third party delivery companies.*
- X.51 *Consideration must be given to where delivery vehicles or cycles will be parked or stored when the delivery service is being operated or when the premises is closed. Applicants should ensure that the public highway is not obstructed and that delivery vehicles are not parked illegally. If the applicant intends to use a specific area for the delivery vehicles to wait, then this should not be in a place that is likely to cause nuisance to residents. Premises that have residential properties immediately above them or near to a location where delivery vehicles are to wait must consider the impact that this can have on residents, especially if the operation of the delivery service will be late at night when roads are quieter. Applicants in these circumstances may consider the use of cycles for local deliveries or electric vehicles rather than vehicles that can generate engine noise.*
- X.52 *Applicants will generally be granted, subject to other policies within this statement and the criteria or considerations of this policy if the application is made within Core Hours. Applications beyond core hours and not located within a predominantly residential area will be considered on their own merits. Applicants who apply for hours beyond core hours within a predominantly residential area will be expected to provide sufficient mitigation and propose conditions that would ensure that the premises can operate in a way that will promote the licensing objectives. Applicants in such areas should engage with residents and local resident or amenity associations to explain their application and consider any concerns they may have.*
- X.53 *The Council is committed to making Westminster a leader in tackling climate change and improving air quality. One of the key principles of the Council's vision for a City for All is to make Westminster greener and cleaner. We want to be known for leading the way in tackling climate change and improving air quality. We want our residents' children to inherit not just a more equitable, better, and healthier living environment but also a working model of how a global city can successfully take on the environmental challenges facing the next generation. Some areas of the City have unacceptably high levels of pollution. The Council is working tirelessly to ensure air quality meets the legal limits to enable all people to live well. Applicants who will commit to the use of cycles or no emission vehicles, such as electric cars and vans will help to reduce emissions within the City.*
- X.54 *Although the use of non-emission delivery vehicles will not warrant an exception to any other policies it will demonstrate a commitment from the operator to support the Council's vision to reduce pollution, improve air quality and reduce the carbon*

footprint of businesses. These non-emission vehicles often generate far less noise than polluting vehicles and therefore can also provide an element of mitigation towards the prevention of public nuisance.

- X.55 *The Council's recently adopted City Plan prioritises carbon reduction through reduced traffic and congestion and largely reflects the London Plan's approach to facilitate safe, clean, and efficient deliveries. London Plan policies seek to reduce number of trips, coordinate the provision of infrastructure and facilities to manage freight at an area-wide level, support new consolidation and distribution facilities, enable and encourage off-peak deliveries to reduce congestion, require micro-consolidation facilities at large development, enable sustainable last-mile movements and encourage modal shift from road to water or rail. In addition, the City Plan also requires that all collection and delivery needs be fully met within a development site or, where this is not possible, that they are carried out in a way that minimises adverse impacts on other highway and public realm users and activities.*
- X.56 *The Council's Freight, Servicing and Deliveries Strategy and Action Plan (FSD) sets out a number of measures to develop the City Plan policies further into action for implementation over the lifetime of the City Plan. The FSD sets out a total of 55 measures which are structured around three themes:*
- *Reducing. Reducing the number of trips generated by freight, servicing and delivery activity, the time spent in the city and the impact on the local road network and environment.*
 - *Remoding. Making use of alternative modes (including rail and water) and increasing the uptake of zero emission vehicles, wherever possible, and enhancing the infrastructure required to support their use.*
 - *Retiming. Making best use of an extended delivery, collection and servicing operating window in a managed monitored and enforced way, utilising non-peak hours.*
- X.57 *Applicants should consider the packaging that is used for any products that are being delivered either to their premises or from it. The use of packaging made from recyclable materials is highly recommended and operators are encouraged to avoid the use of single use plastic packaging.*
- X.58 *Whilst protecting the environment is not a licensing objective, we feel strongly that responsible businesses should be incorporating measures to reduce their impact on the environment and protect our residents. The requirements of the Council's City for All vision for a greener and cleaner city, its City Plan policies and the associated FSD Strategy and Action plan are not binding for considering and determining applications under the Licensing Act 2003. However, the Council will continue to promote these key principles to improve air quality, reduce the impact on the environment and protect residents. Applicants that consider the principles of the City Plan and FSD along with the requirements of this policy will go towards demonstrating that they are focused on how their business will contribute to the Council's wider City for All vision to create a greener and cleaner Westminster.*
- X.59 *Public nuisance does not just relate to the noise generated by delivery personnel and their vehicles. Littering in and around locations where delivery personnel congregate can also cause public nuisance and generate additional street cleaning for the*

Council. Applicants will be expected to ensure that delivery personnel do not litter or create unnecessary waste. Applicants must provide appropriate information and training to delivery personnel on littering, they should provide adequate waiting areas inside the premises for delivery personnel, provide adequate bins outside the premises or in areas where delivery personnel wait for their job and where necessary provide additional street cleaning around the premises.

- X.60 The applicant should ensure that adequate toilet provision is provided within the licensed premises. It is not acceptable that delivery personnel urinate on the street or in private spaces within Westminster. The applicant must ensure that delivery personnel are made aware of the availability of toilet facilities at the premises and that urinating in the street is not acceptable.*
- X.61 Applicants will be expected to have a robust disciplinary process in place for their own staff carrying out the delivery function who are found to generate noise, drop litter or urinate on the street.*
- X.62 The Licensing Authority and the Metropolitan Police Service have specific concerns around the delivery of alcohol off the premises due to issues around the end location of delivery, age verification checks, the increased possibility of the alcohol be consumed in open spaces or parks, as well as the personal safety of drivers when having to refuse to deliver the alcohol to the customer due to intoxication or fail age verification.*
- X.63 Alcohol delivery poses a unique set of challenges as it often transfers the final age verification to a person who has no responsibility in relation to the Premises Licence which authorised the sale of alcohol. A premises licence holder needs to be satisfied that their drivers or the delivery drivers of the third-party company they chose to use, have received regular and comprehensive training in age verification and identifying persons who have consumed too much alcohol.*
- X.64 There are concerns that customers can use landmarks/businesses not related to them as addresses for delivery so that alcohol could be consumed in open spaces or parks. The risk being that this may lead to an increase in crime and disorder, public nuisance, or a possibility that underage persons can gain access to alcohol.*
- X.65 Concerns have also been raised about the delivery of alcohol to known street drinking hotspots. Therefore, a condition requiring all deliveries to be to a verifiable residential or business address and a face-to-face ID verification is vital in mitigating some of this risk.*

3. Other Proposed Policy Amendments

- 3.1 The following amendments to existing policies are intended only to implement the proposed new policies for Ancillary Delivery Services, Shops and Delivery Centres premises uses.

Deletion of the Off Sales of Alcohol Policy OS1

- 3.2 As referenced above it is proposed to delete the Off Sales of Alcohol Policy OS1 as this policy is being replaced by the new Shop and Delivery Centre policies. It is therefore necessary to delete any references to this policy within this Statement.

Amendment to the Core Hours Policy HRS1

- 3.3 It is proposed to amend the Core Hours Policy to delete the Off Licences Core Hours in Clause C. 4. The Off Sales of Alcohol Policy will be deleted and replaced with the new Shops and Delivery Centre policies and new Core Hours are proposed for these two new premises use policies.
- 3.4 Shops provide a number of licensable activities in addition to the sale of alcohol off the premises. Therefore, it is proposed to retain the off sales of alcohol Core Hours for shops selling alcohol in sealed containers for consumption off the premises. For all other licensable activities, it is proposed to enable shops to operate to Core Hours that are consistent with other licensed premises uses. The proposed Core Hours for shops is set out below:

10.a Shops (all licensable activities except the off sale of alcohol)
Monday to Thursday: 9am to 11.30pm
Friday and Saturday: 9am to 12am.
Sunday: 9am to 10.30pm.
Sundays immediately prior to a bank holiday: 9am to 12am.

10.b Shops (off-sales of alcohol)
Monday to Saturday: 8am to 11pm
Sunday: 9am to 10.30pm

- 3.5 It is proposed to apply the off-licence hours for delivery centres. Although it is noted that some delivery centres may also provide late night refreshment for delivery. There are concerns over the impact that these premises can have on public nuisance associated with their delivery operation. The Hours proposed reflect the need to ensure that residents are not adversely affected by these premises late at night.

3. Delivery Centres
Monday to Saturday: 8am to 11pm.
Sunday: 9am to 10.30pm

Amendment to Fast Food Premises Policy FFP1

- 3.6 Fast Food Premises will provide food for immediate consumption on the premises or to take away from the premises. This policy is intended to apply to walk in venues where the main operation of the premises will be to walk in customers. It is acknowledged that some premises, to which this policy would apply have historically offered ancillary alcohol and/or

late-night refreshment delivery to their customers. However, to ensure that the key considerations of the new Ancillary Delivery of Alcohol and/or Late-Night Refreshment policy DEL1 are taken into account by applicants it is proposed to insert a new sub-clause within both Clause A and B that states:

The operation of any delivery services for alcohol and/or late-night refreshment meets the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

- 3.7 It is intended to add a new Sub-Clause within Clause D to amend the definition of a Fast-Food Premises within this policy so that it is clear that delivery services can be provided. However, the provision of the delivery service must be ancillary to the main function of the fast-food premises as described within the definition. It is proposed to add a new sub-clause to Clause D which will state:

4. *A fast-food premises can provide a delivery services as part of its operation, however that service must be ancillary to the main function of the premises as defined within sub-clauses D,1 to D,3 above.*

Amendment to the Restaurants Policy RNT1

- 3.8 Restaurants are the main premises use that will offer ancillary alcohol and/or late-night refreshment delivery to their customers. The policy needs to reference the new Ancillary Delivery of Alcohol and/or Late-Night Refreshment policy DEL1. It is proposed to insert a new sub-clause within both Clause A and B that states:

The operation of any delivery services for alcohol and/or late-night refreshment meets the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

- 3.9 The definition of a restaurant currently restricts the provision of takeaway from the premises. It is proposed to amend the definition to enable restaurant businesses to provide delivery services as an ancillary function to the main operation of the premises. It is proposed to amend the definition to add that delivery services can be provided as ancillary to the main function of the premises as a restaurant. It is proposed to amend sub-clause 3 of Clause C as follows:

3. *Which do not provide any takeaway service of food and/or drink for immediate consumption, except if provided via an ancillary delivery service to customers at their residential or workplace address.*

Amendments to other premises use policies

- 3.10 It is proposed to insert a new sub-clause within both clauses A and B of policies CAS1, CCSOS1, COMB1, HOT1, QUC1 and SCEV1 and Clauses A and C of policies, PB1 and MD1 that refers to the Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1. The proposed sub-clause will state:

The operation of any delivery services for alcohol and/or late-night refreshment meets the Council's Ancillary Delivery of Alcohol and/or Late-Night Refreshment Policy DEL1.

4. Consultation

- 4.1 The consultation period for the proposed revisions of the Council's Statement of Licensing Policy will run from Monday 14th June 2021 to Sunday 25th July 2021 (6 weeks). Consultation responses can be made using the dedicated online consultation response form which has been made available at www.westminster.gov.uk/licensing-consultation. Responses can also be sent via email to licensingconsultation@westminster.gov.uk or via post to:

Licensing Policy Consultation
Innovation and Change
17th Floor
Westminster City Council
Westminster City Hall
64 Victoria Street
London
SW1E 6QP

- 4.2 The responses received during this consultation period will be collated and considered by the Council before it is adopted. Any views expressed by stakeholders or responsible authorities through pre-arranged meetings with the Council will also be considered alongside all submitted formal consultation responses.
- 4.3 If a consultee does have an issue meeting the deadline for their consultation response, then they can email licensingconsultation@westminster.gov.uk requesting an extension for their submission. Extension will be permitted if there is a genuine and reasonable reason that the consultee is unable to submit their views in time. Any extension to the deadline will be at the discretion of the Council the period of the extension will be agreed between the consultee and the Council.