



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

STATEMENT OF LICENSING POLICY

JANUARY 2021 – JANUARY 2026

Statement of Licensing Policy

Contents

<u>Section</u>	<u>Subject</u>	<u>Page No.</u>
(1)	Introduction	4
(2)	Summary of main Policy decisions	4 - 8
(3)	The Royal Borough of Kensington and Chelsea	8 - 10
(4)	Consultation	10 - 12
(5)	Applicants for premises licences	12
(6)	'Other Persons'	13
(7)	Director of Public Health	13
(8)	Closing hours	13 - 17
(9)	Reviews	17 - 19
(10)	Casinos	19 - 20
(11)	Late night refreshment	20 - 21
(12)	Off sales of alcohol	21 - 22
(13)	Local Area Risk Assessments	22 - 23
(14)	The Licensing Objectives – Conditions for premises licences	23 – 26
(15)	Maximum capacities	27
(16)	Mandatory Conditions	27
(17)	Minor variations	27
(18)	Shadow Licences	28

<u>Section</u>	<u>Subject</u>	<u>Page No.</u>
(19)	Temporary Event Notices	29 – 30
	Busking	30 – 31
(20)	The Licensing Committee and Sub-Committees	31 - 32
(21)	Protection of Children from Harm	32 – 34
(22)	Nudity and striptease	35
(23)	Plastic Glasses	35
(24)	'Significant/Major events'	35 - 36
(25)	Notting Hill Carnival	36 - 40
(26)	Personal licences	40
(27)	Enforcement	40 - 42
(28)	Review of Licensing Policy	42

Appendices

Appendix A	Glossary of terminology	43 - 46
Appendix B	Useful contacts	47 - 49
Appendix C	Map of noise complaints	50
Appendix D	Maps of police calls regarding disorder	51 – 58
Appendix E	Mandatory Conditions	59 – 61

1. Introduction

- 1.1 The Royal Borough of Kensington and Chelsea is the Licensing Authority under the Licensing Act 2003. It is responsible for granting premises licences; club premises certificates; temporary events notices, in respect of the provision of licensable activities; and personal licences in the Royal Borough.

The term 'Licensing Authority' will be used in all future references to 'the Royal Borough of Kensington and Chelsea' in this Statement of Licensing Policy.

All references to the Secretary of State's Guidance relate to the version published in April 2018. A copy of this version is available on the Council's website.

- 1.2 This policy is intended to provide clarity to applicants, 'other persons' and 'responsible authorities' on how this Licensing Authority will determine applications to sell and supply alcohol, provide regulated entertainment and provide late night refreshment.

2. The Policy

- 2.1 The Licensing Act 2003 requires this Licensing Authority to carry out its various licensing functions so as to promote the following four licensing objectives:

- 1) The prevention of crime and disorder**
- 2) Public safety**
- 3) The prevention of public nuisance**
- 4) The protection of children from harm.**

Each objective is of equal importance. It is important to note that there are no other licensing objectives, therefore these four are of paramount importance at all times.

The Licensing Authority must base its decisions, in relation to determining applications and attaching any conditions to licences, on the promotion of these licensing objectives. The Licensing Authority has taken full account of the guidance issued to it by the Secretary of State under section 182 of the Act. Where it is necessary to depart from that guidance, the Licensing Authority will give its reasons for doing so.

- 2.2 The Licensing Act 2003 further requires this Licensing Authority to publish a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

- 2.3 This 'Statement of Licensing Policy' was prepared in accordance with the provisions of the Act and having had regard to the Secretary of State's Guidance issued under Section 182 of the Act. The Licensing Authority has also given due regard to the Government's National Alcohol Strategy 2012. The full document can be viewed on the Council's website or at:

<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-strategy>

The original policy was adopted by the Full Council in December 2004 and published in January 2005 after undergoing a full consultation process. The Licensing Act originally required Licensing Authorities to undertake a further consultation exercise and review their Statements of Licensing Policy every three years. A review of the policy took place in 2007, 2010 and again in 2012. Amendments to the Licensing Act 2003, through the Police Reform and Social Responsibility Act 2011, now require Licensing Authorities to review their Statements of Licensing Policies every 5 years. However, the Act also states that Licensing Authorities must keep their Policies under review and make such revision to it whenever relevant. Due to significant changes in licensing law between 2012 and 2014, a further review was undertaken in 2015. Following a full consultation exercise, further amendments were made to the Policy Statement in 2018 to include a section focusing on Notting Hill Carnival.

- 2.4 In accordance with the Secretary of State's Guidance, the Licensing Authority will avoid duplication with other regulatory regimes, such as the Health and Safety at Work etc. Act 1974, as far as possible when considering licence applications and conditions attached to those licences.
- 2.5 As recommended in the Secretary of State's Guidance, when attaching conditions to premises licences the Licensing Committee will have regard to our local Community Safety Plan and relevant conditions will reflect this plan where possible e.g. the provision of closed circuit television cameras in certain places.

Any conditions that are attached to premises licences and club premises certificates will be appropriate and proportionate to the operation of the premises and be focused on matters that are within the control of individual licensees and others in possession of various authorisations.

The Licensing Authority will also avoid the use of 'standard conditions', as far as possible, and will tailor conditions to individual premises where relevant. The Licensing Authority will, however, also have 'pools' of conditions to draw from where they are relevant to individual premises. These conditions will be updated as necessary and are available on the Council's website.

This Statement of Licensing Policy recognises the Race Relations Act 1976. The Licensing Authority will have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different racial groups.

2.6 This Licensing Authority encourages cultural activities within the borough and is aware of the need to avoid measures that will deter live and recorded music late at night when determining what conditions should be placed on premises licences and club premises certificates - particularly those conditions that impose costs of a disproportionate nature. However, any adverse environmental impact that may arise from individual applications will also be taken into account when considering such applications. Where adverse environmental impacts arise due to the provision of live and recorded music between 08:00 and 23:00, and an appropriate application to review a premises licence has been received, the Licensing Authority will consider removing the exemption from licensing requirements and attach relevant conditions to the premises licence in order to minimise disturbance to neighbours.

2.7 The Licensing Authority will primarily focus on the direct impact of the licensable activities on members of the public living, working or engaged in normal activity, regardless of their geographical proximity to the premises.

The Secretary of State's Guidance states that licensing law is not the primary mechanism for the general control of antisocial behaviour by individuals once they are beyond the control of the premises. The Council and the police have a range of statutory powers to deal with such behaviour. Nevertheless, those powers will not always be sufficient to control any negative impacts on the vicinity.

Additionally, licensing legislation does play an enormously important part in influencing the times at which, and the numbers and state in which, customers leave licensed premises.

2.8 The Licensing Authority recognises the contribution of licensed premises to leisure activities, culture and the economy within the borough. The role of the Licensing Authority is to exercise its statutory powers with a view to promoting the licensing objectives, **and it will not impose restrictions on existing or proposed activities except where it is deemed appropriate and proportionate to do so.**

The Licensing Authority will have no discretion to refuse to grant, or to impose conditions on, applications for new premises licences and variations to existing licences in the absence of relevant representations. Where, however, relevant representations have been made, the Licensing Authority's discretion is engaged and it must take steps as are appropriate and

proportionate to promote the licensing objectives. This may include refusal of the application or the attachment of conditions.

When this policy refers to the Licensing Authority's approach to the exercise of its decision-making powers, this refers to those cases where its discretion has been engaged by the receipt of relevant representations. Nothing in this policy prevents an applicant from applying for new or varied licences, and each case will be considered on its own individual merits, having regard to the content of this policy.

This paragraph applies equally to the grant or variation of club premises certificates.

2.9 The Licensing Authority has made a number of policy decisions within this policy document. These can be summarised as follows:

- i) Where the Licensing Authority's discretion has been triggered by the receipt of relevant representations, applications for the grant of, or variations to, premises licences or club premises certificates will not normally be granted which permit opening hours which are later than 12 midnight. A more in-depth explanation can be found in **section 8** of this document.
- ii) Where the Licensing Authority's discretion has been triggered by the receipt of relevant representations applications for the grant of, or variations to, premises licences where the licensable activity relates to the sale of alcohol for consumption off the premises will generally only be granted with a terminal hour later than midnight if the applicant can show that this would not lead to crime and disorder issues, disturbances and noise nuisance. A more in-depth explanation can be found in **section 12** of this document.
- iii) The Licensing Authority would prefer that any temporary event notices are submitted to this Authority not more than three months and not less than 28 days before the event is planned to take place (except for those relating to Notting Hill Carnival – see section 25). The Licensing Act states that premises may host up to 15 such events each year, each lasting up to a total of seven days, but the cumulative total may be no more than 21 days. The Act also allows for organisers to submit up to 10 'Late TENS' if they are the holder of a personal licence or 2 'Late Tens' if they are not (submitted between 5 and 9 working days before the planned event). However, should an objection be received from the Police or Environmental Health the event **will not** be permitted to go ahead. A more in-depth explanation can be found in **section 19** of this document.

2.10 This policy statement has, amongst other things, four main purposes which are:

- **To inform Members** of the Licensing Committee of the powers of the Licensing Authority and the boundaries within which to make decisions.

- **To inform licence applicants** of the parameters within which the Licensing Authority will make licensing decisions and how licensed premises are likely to be able to operate within the borough.

- **To inform local residents and businesses** of the considerations which the Licensing Authority will take when making licensing decisions.

- **To inform Responsible Authorities** of their powers under the Act to promote the four Licensing Objectives.

2.11 The Licensing Authority recognises the issues faced by the hospitality industry due to the Covid-19 pandemic and will apply this policy as flexibly as possible to support businesses during their recovery.

3. The Royal Borough of Kensington and Chelsea

3.1 While the Royal Borough is the smallest of the London boroughs, covering 1,213 hectares (2,997.32 acres), it is also one of the most densely populated local authority areas in this country with 131 people per hectare (53 per acre).

3.2 Residential and business properties sit 'cheek by jowl' throughout the borough. There are approximately 1,050 premises in the Royal Borough licensed to sell alcohol, ranging from small off-licences to pubs, wine bars, restaurants, members only clubs, night clubs and casinos. This can be compared to another inner London borough, Camden, which currently has approximately 1,800 licensed premises but covers an area of 2,180 hectares (5,337.4 acres), nearly twice the size of the Royal Borough, and has 103.2 people per hectare (40.93 per acre).

The City of Westminster, covering an area of 2,148 hectares (5,307.7 acres) with 102 people per hectare (41.3 per acre), currently has about 3,100 licensed premises. The London Borough of Greenwich, covering an area of 5,087 hectares (12,565 acres) with 52.9 people per hectare (119.76 per acre), currently has approximately 800 licensed premises.

These comparisons show that even within central London, the Royal Borough's residents are more likely to notice the effects of licensed premises than in other areas due to the density of the population and the large number of licensed premises.

(Size of local authority and density of population information obtained from the national census of 2011 at the Office of National Statistics and from individual surveys conducted by the relevant Councils)

- 3.3 On the 01 April 2020 the Royal Borough had 1052 premises licensed under the Licensing Act 2003 and of these 151 (14%) were authorised to sell alcohol for consumption off the premises and 848 (81%) were authorised to sell alcohol for consumption on (or on and off) the premises.

Of those authorised to sell alcohol for consumption on (or on and off) the premises, 355 (42%) were licensed until midnight; (97 (11%) were licensed between midnight and 1am; 40 (5%) were licensed between 1am and 2am; and 32 (4%) were licensed after 2am. An additional (324 (38%) premises had licensing hours before midnight.

- 3.4 Although exact figures are not available, we estimate that the total number of customers leaving licensed premises closing at or after midnight, if they are running at or near capacity, is currently in excess of 20,000. This figure is likely to increase significantly if the additional premises currently closing before midnight were permitted to operate until the early hours of the morning.

- 3.5 The Royal Borough's Environmental Health Team received approximately 934 complaints about noise and nuisance linked to alcohol and music noise in 2019 (excluding those relating to domestic and building complaints).

It is accepted that not all of these complaints relate to licensed premises and the behaviour of their customers; however, any relaxation in permitted hours in licensed premises must take into account the level of disturbance already suffered by the Royal Borough's residents.

A map showing the number of non-residential noise complaints (excluding building noise complaints) by Ward in the Royal Borough between January 2019 and December 2019 is attached as Appendix C.

- 3.6 The Council also has a responsibility, under section 17 of the Crime and Disorder Act 1998, to do all that it reasonably can to reduce crime and disorder in its area. Consideration has, therefore, been given to the results of police records of general crime and disorder, as well as particular 'hotspots' within the Royal Borough when determining this policy.

Maps showing the numbers of calls to the police regarding disorder from 10pm to midnight, midnight to 2am, 2am to 4am and 4am to 6am, and further maps showing the number of allegations of violence against the person and sexual assaults by Ward between January 2019 and December 2019, are attached as Appendix D.

- 3.7 The Royal Borough seeks to maintain a balance between the businesses operating within its area, the residents living within its area and cultural, entertainment and tourist interests. Full consideration has been given to all of these issues in formulating this policy.

3.8 The Secretary of State's Guidance states in paragraphs 14.51 and 14.52 that 'With regard to licensing hours different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.' The Guidance goes on to state 'Statements of Licensing Policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The Statement of Licensing Policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.' Because of the borough's small size, while consideration will be given to the merits of each licence application, currently a general policy in relation to new grants of premises licences, variations to existing premises licences and closing hours has been set out within section 8 of this policy statement where the Licensing Authority's discretion has been triggered by the receipt of relevant representations.

3.9 The Council has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises.

4. Consultation

4.1 Before publishing this revised Policy Statement, the Licensing Authority has consulted with the Police, the Fire Authority, representatives of local residents, representatives of premises licence holders and representatives of local businesses. The Licensing Authority has given due regard to the responses from this consultation process when completing the final version of this Policy Statement.

4.2 This policy also has regard to the Council's Local Plan and its culture and crime and disorder plans and strategies.

The Planning Department; the Environmental Health Department; the Culture Team; the Education, Libraries and Arts Department; the Highways Department; the Community Safety Team; the Kensington and Chelsea Partnership; and the Director of Public Health's Team have been consulted on the contents of this Policy Statement. Their comments, where received, have been included in this document to ensure integration with other borough plans and strategies where appropriate.

The Licensing Authority will monitor the effect of licensing on the provision of regulated entertainment, particularly live and recorded music and dancing, to ensure that only proportionate and reasonable licensing conditions impose any restrictions on such events.

4.3 The Secretary of State recommends in the Guidance that the planning and licensing regimes are properly separated to avoid duplication and inefficiency. The Licensing Authority will ensure that the two regimes are kept separated. The Planning Department will be kept regularly apprised of the situation regarding licensed premises within the Authority's area, including the general impact of alcohol-related crime, to enable this Department to have regard to such matters when considering its decisions to avoid any unnecessary overlap.

4.4 The Secretary of State's Guidance states the following in relation to Planning and Licensing:

'14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in Chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

14.65 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.'

This Licensing Authority will ensure that the provisions of these two paragraphs are considered fully when dealing with licence applications.

- 4.5 This Authority's Licensing Committee will, when appropriate, receive reports on the needs of the local tourist economy and the cultural plans for the area to ensure that these are reflected in their considerations. The Licensing Committee will be apprised of the local employment situation and the need for new investment and employment, where appropriate. This Licensing Authority will ensure that the Licensing Committee receives reports on these issues when appropriate.
- 4.6 The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. The Royal Borough has an Equal Opportunities Policy and this revised Statement of Licensing Policy will be monitored for any adverse impact on the promotion of opportunities for all.

5. Applicants for premises licences

- 5.1 Any person aged 18 years or over who is carrying on, or who proposes to carry on, a business that involves the use of premises for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period. 'A person' in this context includes a business, individual or partnership.

Where the premises are, for example, a managed public house, the Royal Borough will expect the applicant for a premises licence to be the pub operating company because the manager (as an employee) would not be able to do so. The same applies to premises such as cinema chains and fast food restaurant chains where the managers will, similarly, be employees of the operating company.

- 5.2 However, in respect of most leased public houses, a tenant may run or propose to run the business at the premises in agreement with the pub operating company. In such cases, it will not be a matter for the Licensing Authority to decide who should apply for the premises licence, but a matter for the tenant and the operating company to agree contractually.
- 5.3 In order to assist potential applicants for the grant of, or variation to, a premises licence or club premises certificate this Authority provides a pre-application advice service, details of which can be found on the Council's website.

6. Other Persons

- 6.1 The Act describes two “bodies” that may make representations to licence applications and may apply for an existing premises licence to be reviewed by the Licensing Authority, Responsible Authorities and “Other Persons”. A list of Responsible Authorities can be found in Appendix B.
- 6.2 “Other Persons” means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location. Although they may be in any geographical position, any representation they make must be relevant to one or more of the licensing objectives, and must not be considered to be frivolous or vexatious. Additionally, any application to review a premises licence must not be repetitious.
- 6.3 This Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely to ensure that it is valid and complies with the requirement of the Licensing Act 2003.

7. The Director of Public Health

- 7.1 Whilst there may be evidence that people addicted to alcohol and their families are at risk of significant health and social problems such as mental illness, gambling and drug misuse, relationship breakdown, criminal activity and financial difficulties, public health is not a licensing objective and, therefore, cannot be taken into account when deciding on applications. However, the Director of Public Health’s team is a Responsible Authority under the Act and as such is able to make representations either in their own right or in support of other representations. The Licensing Authority will continue to liaise with public health colleagues about new and variation applications within the borough, so that we can both continue to monitor any increase in access to alcohol for those at risk and work jointly to ensure that appropriate measures are put in place to minimise that risk and support those seeking help.

8. Closing Hours

- 8.1 The Licensing Authority acknowledges the Secretary of State’s Guidance attached to the Licensing Act 2003 in relation to licensing hours as mentioned in paragraph 3.8 of this Statement of Licensing Policy.
- 8.2 Paragraph 3.1 of this policy states that the Royal Borough is the smallest of the London boroughs and is also one of the most densely populated local

authority areas in this country. Although there are areas within the borough that are 'hotspots' of noise and disturbance related to licensed premises, there are very few areas where residents are not directly affected.

- 8.3 Because of the intense mix of residential and licensed premises within the Royal Borough, staggering closing hours of licensed premises throughout the night, rather than reducing any adverse effect on residents, may in fact disturb them continuously.
- 8.4 There are, comparatively, so many licensed premises in any given area within the Royal Borough that staggering closing hours could mean a continual disturbance to residents as customers left each of the premises. In fact, some residents of the Royal Borough ask that the existing opening hours of licensed premises are reduced in order that the disturbance suffered occurs at an earlier hour rather than continuing on throughout the night, enabling them to get undisturbed sleep for longer periods.
- 8.5 The maps, attached as **Appendices C** and **D** to this Policy Statement, show the spread of disturbances linked to licensed premises and the consumption of alcohol. They also show that some residents already suffer noise and disturbance throughout the night, even though there are a significant number of late night licensed premises closing at different hours between midnight and 4am.

The Licensing Authority's view is that increasing staggered closing hours throughout the night could add to the adverse effect on residents, and any further increase in late night premises may produce an increase in noise and disturbance from customers of these premises.

- 8.6 Despite having some of the lowest levels of car ownership in the country, the borough experiences very high levels of on-street residents' parking demand. There are approximately 35,000 residents permit holders (including disabled permit holders) and approximately 29,400 residents' spaces available on-street, and this results in high levels (75 per cent occupancy or above) of occupancy on residents' parking in many parts of the borough at times.
- 8.7 Parking stress is higher in areas with evening uses such as pubs, clubs and restaurants. Past surveys have demonstrated that approximately 10 per cent of restaurant users drive to the premises. The stress on parking spaces within the Royal Borough is at such a high level now that any applicants for new licensed premises, particularly restaurants, would need to show how their customers would not add to existing parking issues within the borough, for example; have arrangements in place for a named taxi firm to pick up customers.
- 8.8 The Licensing Authority considers that the imposition of conditions on premises licences generally would not, by itself, resolve the issue of

disturbance to residents from late night premises. Conditions may include trying to ensure that customers leave quietly, but licensees will have little or no control of their customers once they leave the close vicinity of the premises.

Residential dwellings are common above and next to most licensed premises. Generally, throughout the borough, ambient noise levels fall significantly between 11pm and midnight and noise from even well behaved customers leaving licensed premises after midnight does disturb residents. Many of the streets within this Licensing Authority area are narrow causing any noise to reverberate from building to building.

Actions that during the day would have little adverse environmental effect, such as car doors shutting and conversations, can have the opposite effect after midnight, disturbing local residents and breaking their sleep.

- 8.9 Having taken all these matters into consideration, when dealing with applications for premises licences and club premises certificates this Licensing Authority will not, generally, grant such licences or certificates permitting premises to be open to the public or a section of the public beyond midnight when its discretion has been triggered by the receipt of relevant representations. This will also apply to variations of existing licences that would entail extending the terminal hour beyond midnight.

Because of the individual nature of the Royal Borough, even those areas designated as 'higher order town centres' within the Local Plan also have a high concentration of residential use. Indeed, many of the buildings within these areas are both residential and commercial in character.

However, as stated in paragraph 2.8 above, the Licensing Authority will consider each application on its own merits and take the individual circumstances into consideration when reaching its decision.

- 8.10 There are very few solely commercial areas within the Royal Borough (those that are have residential areas in close proximity) and, taking into account the level of existing noise complaints, the limited availability of late night public transport and police records of crime and disorder, it is appropriate to **generally limit opening hours to midnight** in order to maintain the balance between residential and commercial interests. The Licensing Authority will generally expect licensable activities to cease sufficiently before midnight to ensure the efficacy of such a limitation.

However, this is a general policy and does not automatically mean that all applications, when the discretion of the Licensing Authority is exercised on receipt of valid representations, will result in premises licences being granted until midnight or that no applications will be granted with a **terminal hour after midnight**. The Licensing Authority highlights the fact that each

application will be considered on its own merits and **an individual application may result in a terminal hour** being set for either before or after midnight dependent on the particular circumstances of that application.

The Licensing Authority considers that, generally, a **terminal hour of 12 midnight will**, in this particular area, be a better method of promoting the two licensing objectives of the prevention of crime and disorder and the prevention of public nuisance, than extending terminal hours.

- 8.11 When reaching a decision on whether to grant or vary a licence or certificate **with a closing hour after midnight**, the Licensing Authority will have due regard to the ability contained within the Licensing Act 2003 for ‘other persons’ and ‘responsible authorities’ to apply for the licence to be reviewed if the premises operate in a manner that does not promote the licensing objectives.
- 8.12 The implications of noise and disturbance to residents will also be considered when applications are made to increase the capacity of venues operating after midnight, where there is already a maximum capacity set. In considering such applications, the Licensing Authority will have to consider the overall effect of any increase on the rights of residents to privacy and a family life.

Where increases in capacities are granted but it is considered that the increase will have an adverse impact on the environment, the Authority will consider the imposition of conditions to diminish or avoid the impact where its discretion is triggered through the receipt of valid representations. See chapter 14 for more details on capacities.

- 8.13 This policy recognises that in this particular borough, disturbance is likely to follow from late trading. Any exception to the policy is only likely to be applied where the applicant can demonstrate that the new, or extended, licence will not exacerbate the problem.

Consideration will always be given to the applicant’s individual case. The Council will take into account any proposals that the applicant makes to minimise the risk of nuisance being caused by customers departing from the premises. However, it is unlikely that the mere fact the premises will be well managed, or that the applicant is of good character, or that the premises, or the capacity or the increase in hours applied for is small, will alone be sufficient to demonstrate that no exacerbation will occur.

- 8.14 The Secretary of State’s Guidance makes reference to a Licensing Authority’s ability to include a ‘cumulative impact’ policy if relevant. This section of the Licensing Authority’s licensing policy relating to terminal hours is not a ‘cumulative impact’ policy, as that term is used in the

Guidance. The Authority has taken the policy decision generally to refuse applications for the reasons which have been given.

This policy recognises the high degree of proximity between residential and night time commercial usage throughout the whole borough.

- 8.15 Where an applicant for a premises licence anticipates that on 'special occasions', such as significant birthdays and Bank Holidays, there will be a demand to remain operating later than usual, the Licensing Authority suggests that the applicant specifies on the operating schedule how many occasions late openings would be anticipated and what control measures will be put in place to promote the licensing objectives.

The Licensing Authority will take into consideration the content of the operating schedule when reaching its decision where its discretion has been triggered through the receipt of relevant representations.

- 8.16 The Licensing Authority has noted paragraph 14.42 of the Secretary of State's Guidance, which states that in the absence of a special 'cumulative impact' policy interested parties and responsible authorities may still make representations on variations and new premises licence applications "on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives".
- 8.17 The Licensing Authority advises applicants that it would be beneficial if a lawful planning use can be demonstrated for the activities proposed in all applications for premises licences.

9. Reviews

- 9.1 Where an operator of licensed premises is, in the opinion of any 'responsible authority' or 'other person', managing his business in a manner that does not promote one or more of the licensing objectives, then that 'responsible authority' or 'other person' may apply to the Licensing Authority for the premises licence to undergo a review.
- 9.2 Events that may trigger a review could include: continual complaints of noise escape from premises, or noise from customers outside premises; underage sales of alcohol; storing or selling illegal tobacco or alcohol; drug misuse within the premises; sales of alcohol outside of the permitted hours; violence; and allegations of crime taking place on the premises.
- 9.3 Operators should take particular care to ensure that customers using the pavement outside their premises in the warmer months of the year, or at any time of the year to smoke, do not cause unnecessary nuisance to local residents.

They should ensure that large numbers of their customers do not block pavements, thereby causing pedestrians to step out into the roadway. Failure to control customers using the pavement outside their premises could result in their premises licence being the subject of a review application.

Pavements should be clear enough to enable pedestrians to pass by without stepping onto the roadway, and noise nuisance should be controlled so as to keep any disturbance to local residents at a minimal level.

Should an operator wish to provide tables and chairs outside premises a separate permission may be required. Details of Tables and Chairs permissions can be found on the Council's website.

- 9.4 The Secretary of State's Guidance makes reference to certain criminal offences taking place in connection with licensed premises that may result in reviews and a revocation of the licence as follows:

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises: • for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime; • for the sale and distribution of illegal firearms; • for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; • for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people; • for prostitution or the sale of unlawful pornography; • by organised groups of paedophiles to groom children; • as the base for the organisation of criminal activity, particularly by gangs; • for the organisation of racist activity or the promotion of racist attacks; • for employing a person who is disqualified from that work by reason of their immigration status in the UK; • for unlawful gambling; and • for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

- 9.5 Where a review application is made the Licensing Committee, having heard the evidence from the review applicant and supporters and the operators of the premises, will have a number of options. These are:

- i) take no further action

- ii) give the operator a verbal warning
- iii) attach additional conditions, either permanently or for a temporary period of up to three months
- iv) to exclude a licensable activity from the licence, either permanently or for a temporary period of up to three months
- v) order that the Designated Premises Supervisor be replaced
- vi) suspend all, or part, of the licence for up to three months
- vii) revoke the licence.

9.6 Advice for local residents in relation to reviewing a premises licence can be found at:

<http://www.rbkc.gov.uk/environmentandtransport/licensing/applicantsandbusinesses/licensingreviews.aspx>.

You can also contact any member of the Licensing Team on 020 7341 5152, or email licensing@rbkc.gov.uk.

10. Casinos

10.1 On the 01 January 2020 the Licensing Authority had five casinos operating within its area, all of which were licensed by the Licensing Authority under the Gambling Act 2005 to provide gaming. These licences enable them to operate until 6am for the provision of gaming. Since the implementation of the Licensing Act in 2005, all casinos in the borough have varied their premises licences to also allow them to sell alcohol until 6am.

Casinos are also permitted to provide live entertainment within their premises and it is understood that existing casinos within this area do provide such entertainment.

These casinos are strictly regulated by the Gambling Commission and all of them have shown that they operate in a highly responsible manner, causing the minimum of disturbance and annoyance to residents and other businesses in the area.

10.2 If any variations to premises licences in relation to casinos are granted, the Licensing Authority will take care not to attach any conditions that replicate those already on licences granted under the Gambling Act 2005. Similarly, the Licensing Authority will take care not to attach conditions that would have the effect of preventing the holder of the Casino licence from complying with the requirements of the 2005 Act and its supporting regulations.

10.3 This Licensing Authority will, however, look more closely at any applications for the new grant of a premises licence that includes the supply of alcohol, regulated entertainment or late night refreshment, in relation to any new casinos.

Such premises would not be able to show a history of good operational management within the Authority's area. As stated in paragraph 10.1, the existing casinos have proved themselves to be well managed and cause little, or no, disturbance to local residents and businesses.

- 10.4 However, all applications for the provision of any licensable activities within premises licensed to operate as a casino will be considered on their own merits if the discretion of the Licensing Authority is triggered through the receipt of valid representations.

11. Late Night Refreshment

- 11.1 Under the Licensing Act 2003, the sale of hot food and hot drink for consumption on or off the premises to the public between the hours of 11pm and 5am is a licensable activity. This includes premises that provide equipment for food and non-alcoholic drink sold to the public to be heated up prior to being consumed, e.g. by use of a microwave.
- 11.2 The Licensing Authority advises any applicants for a premises licence to sell hot food and non-alcoholic drink after midnight to give a detailed account of how they will promote the four licensing objectives and, in particular, the prevention of crime and disorder and the prevention of public nuisance. The Authority regards midnight generally as an appropriate terminal hour for the provision of licensable activities as stated in paragraphs 8.10 – 8.11 of this Statement of Licensing Policy. Applicants wishing to provide late night refreshment, particularly 'take-aways', should note the content of these paragraphs when making applications to trade after midnight.
- 11.3 As previously stated in this document, the proximity of residential properties to commercial premises throughout the Royal Borough demands that late night operators ensure any noise and disturbance caused by the operation of their business is either eradicated or kept to a minimal level.

This Licensing Authority will have due regard to any representations from 'responsible authorities' and 'other persons' to the grant or variation of a licence to provide hot food and hot drink to the public. It will also look particularly closely at any measures proposed by the applicant to promote the licensing objectives.

- 11.4 The Licensing Authority will pay due regard to paragraph 3.15 of the Secretary of State's Guidance which states that where late night refreshment is offered "...as a secondary activity in licensed premises open for other purposes such as public houses, cinemas or nightclubs or casinos should not give rise to a need for significant additional conditions.

The key licensing objectives in connection with late night refreshment are

the prevention of crime and disorder and public nuisance, and it is expected that both will normally have been adequately covered in the conditions relating to the other licensable activities on such premises”.

- 11.5 In order to assist potential applicants for the grant of, or variation to, a premises licence or club premises certificate this Authority provides a pre-application advice service, details of which can be found on the Council’s website.

12. Off Sales of Alcohol

- 12.1 The Licensing Authority is aware that there are many small ‘general stores’ within its area that are permitted to sell alcohol for consumption off the premises and also trade until the early hours of the morning, if not for the whole 24 hours.

- 12.2 However, because of the particular nature of this borough, when an application is made to continue selling alcohol in shops after midnight to coincide with its normal hours of operation - and the discretion of the Licensing Authority has been triggered through the receipt of relevant representations - it is advisable that the applicant shows that this would not lead to crime and disorder issues, disturbances and noise nuisance.

It is also advisable for the applicant to provide measures by which the promotion of the licensing objectives will be achieved, particularly the prevention of crime and disorder and the prevention of public nuisance.

- 12.3 This Authority and the borough Police are particularly concerned with the adverse effects ‘street drinkers’ can cause and, in particular, anti-social behaviour. Where licence applications receive representations regarding this issue the Licensing Authority may impose licence conditions restricting the sale of cans and bottles of super strength lager/cider, i.e. 6% ABV or above, and/or restrictions on quantities, i.e. sales of single cans or bottles of lager/cider, and container sizes of particular alcoholic drinks.

- 12.4 Where off sales are permitted, operators should recognise their responsibility to ensure that litter discarded by ‘street drinkers’ in the vicinity of their premises is cleared away regularly.

- 12.5 The Licensing Authority recognises that the provisions of the Business and Planning Act 2020 allows

- fast-track pavement licence applications for the outdoor use of tables and chairs and other furniture for the consumption of alcohol and food
- temporary permission for the sale of alcohol for consumption off the premises for most premises already licensed for the sale of alcohol on the premises, while the premises are open for the sale of alcohol for

consumption on the premises or until 11pm, whichever is the earlier, and

- the temporary suspension of any licence conditions on the current licence for the sale of alcohol for consumption on and off the premises which would prevent
 - off sales of alcohol being sold in an open container, or
 - restrict the times for off sales of alcohol for those premises already licensed for on and off sales of alcohol, at a time when they are open for the sale of alcohol for consumption on the premises - subject to a cut-off time of 11pm, or the closure time of an existing outdoor area, which is the earlier
 - off sales of alcohol by way of deliveries to buildings used for residential or business purposes,

as an important step to aid business recovery in the hospitality sector during the Covid-19 pandemic. These temporary measures are currently due to end on 30 September 2021, but could possibly be extended by the Secretary of State beyond that period.

Operators should continue to take appropriate steps to ensure that the increased use of forecourts and other outdoor areas does not cause unnecessary nuisance to local residents, as this could lead to a summary review of their premises licence and the temporary permission for off sales of alcohol being withdrawn.

13. Local Area Risk Assessments

13.1 The Secretary of State's Guidance states in paragraph 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.'

13.2 The Guidance goes on to state that 'Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises, and proximity to areas where children may congregate;

any risk posed to the local area by the applicants' proposed licensable activities; and

any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

Applicants are expected to include positive proposals in their application on how they will manage any potential risks.'

- 13.3 Paragraph 8.45 of the Guidance states that 'The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

the Crime Mapping website;

Neighbourhood Statistics websites;

websites or publications by local responsible authorities;

websites or publications by local voluntary schemes and initiatives; and on-line mapping tools.'

- 13.4 Paragraph 8.47 of the Guidance states that 'Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.'

- 13.5 This Authority notes the contents of these paragraphs from the Secretary of State's Guidance and, in particular, the use of the word 'expected'. Applications that do not in any way address the contents of these paragraphs may be returned to the applicant as 'incomplete'.

14. The Licensing Objectives: Conditions for premises licences

- 14.1 All conditions on premises licences and club premises certificates must:

- i) Be precise and enforceable
- ii) Be unambiguous
- iii) Not duplicate other statutory provisions
- iv) Be clear in what they intend to achieve, and
- v) Be appropriate, proportionate and justifiable

- 14.2 All premises permitted to sell alcohol are required to have a 'Designated Premises Supervisor' (DPS) named on their premises licence. This individual should have day-to-day control of the premises and should be a single point of contact for any interested parties. However, there is no requirement

within the Licensing Act that such people should have any training specific to their role.

This Licensing Authority recommends that the DPS undergo relevant training, such as the Designated Premises Supervisor course provided by the BIIAB, in order that they are made aware of the responsibilities this position brings with it.

- 14.3 In relation to 'the prevention of crime and disorder' this may, for example, be promoted by: employing registered door supervisors; ensuring staff have attained relevant BIIAB qualifications i.e. the Drugs Awareness Certificate, the Barperson's National Certificate, the Professional Barperson's Qualification; incorporating a search policy into the entry conditions of the premises; the location and standard of any CCTV systems on the premises; and having sufficient trained staff on the premises.

Where the discretion of the Licensing Authority has been triggered by the receipt of relevant representations, conditions reflecting these examples are very likely to be attached to premises licences where premises are situated in crime and disorder hotspots or where they operate after midnight.

- 14.4 In relation to 'public safety' this may, for example, be promoted by: ensuring that staff have the appropriate training; ensuring that safe capacity limits are set and that there is no overcrowding;

- 14.5 In relation to 'the prevention of public nuisance' the Licensing Authority will take particular care to ensure that residents are not disturbed late at night. Where an application is made for a new licence and the Licensing Authority's discretion is triggered through the receipt of relevant representations, the Authority will not grant the application unless satisfied that it will not create an unreasonable disturbance to local residents.

The Licensing Authority will take the same approach when it is considering an application for a variation to an existing licence. However, before refusing an application on these grounds the Authority will consider whether such disturbance may be avoided by the imposition of conditions.

The Licensing Authority expects applicants to give due consideration to implementing a dispersal policy to ensure disturbances to neighbouring residents are kept to a minimum. The dispersal policy should include, entry and exit points, waiting areas, smoking areas, assistance with taxi's and local transport and re-admittance, along with other measures deemed appropriate for the premises' location.

- 14.6 In the case of every premises licence application, where the Licensing Authority's discretion has been triggered by the receipt of relevant

representations, the Authority will consider whether: the sound from music and/or customers may escape from the premises; noise from ventilation and other mechanical plant is minimal; the timings of deliveries and collection of trade waste; steps are taken to ensure patrons and staff leave the premises quietly (including the prominent display of notices to this effect); arrangements are made for patrons to park their cars in a manner that does not disturb or inconvenience local residents; and arrangements are made to minimise noise from taxis.

The Licensing Authority recognises that food and drink delivery services are becoming a growing trend and expects applicants to consider implementing a home delivery policy to minimise potential disturbance to neighbours from courier drivers (and other modes of transport, referred to as "drivers" for ease of reference) collecting from their premises. Points to consider should be; where food will be collected from by the drivers, drivers turning off engines whilst waiting outside the premises and drivers being able to use the premises facilities (toilets, waiting areas), along with others deemed appropriate for the premises' location.

Conditions may be imposed to satisfy these considerations, or when the Authority is concerned that conditions alone will not be enough to ensure the licensing objectives are promoted it may consider whether a particular application should be granted or not. The Authority will also consider whether applicants have made sufficient arrangements to ensure that any waste and bottles from the premises do not cause any detrimental environmental effect in the vicinity.

'Detrimental environmental effect' includes ensuring that the footway outside licensed premises is kept clean and any stains and grease caused as a result of the operation of individual premises are removed by regular cleaning at the operator's expense.

Where relevant, the Licensing Committee may place conditions on a Premises Licence (or Responsible Authorities may seek these types of conditions to be added to a licence) to ensure waste and bottles are disposed of properly. The Authority appreciates that some, or all, of these issues may not be relevant to an individual application and has included them for the assistance of applicants.

- 14.7 In relation to 'the protection of children' this may, for example, be achieved by ensuring that children are not admitted to premises on days when adult entertainment is provided, and that children are not admitted, or allowed to remain on, premises after a certain time.

Additionally, the use of 'proof of age' cards complying with the Home Office approved Proof of Age Standards Scheme (PASS) is now standard good

practice for operators to prevent under age sales and consumption of alcohol in their premises. Use of this scheme is recommended to operators although in exceptional circumstances it could be imposed as a condition on a premises licence.

Details of the PASS scheme can be found at: <http://www.pass-scheme.org.uk/> or by contacting any member of the Authority's Licensing or Trading Standards Teams.

- 14.8 These examples are by no means exhaustive. Even if the applicant does comply with any of the above paragraphs, they may not necessarily achieve the promotion of the licensing objectives in a given case.

Where appropriate, and in order to promote the four licensing objectives, this Licensing Authority's Licensing Committee will attach additional, relevant conditions to premises licences where its discretion has been triggered through the receipt of relevant representations.

- 14.9 The Licensing Authority is aware of the link between the supply of discounted alcohol and incidents of alcohol related disorder as well as the impact that excessive consumption of alcohol or binge drinking can have on public health and will consider whether any additional measures or restrictions can be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.

- 14.10 The 'Safer Nightlife' booklet, published by the Home Office and the London Drugs Policy Forum, contains advice for club owners and promoters as well as for police and local authority licensing officers in relation to the use of drugs in club and dance venues.

This Licensing Authority's committee will have due regard to the contents of the booklet when considering additional conditions for relevant premises licences. The booklet can be viewed and/or downloaded from the Council's website or at:

http://newip.safernightlife.org/pdfs/digital_library/uk_safer_nightlife_guide_line.pdf

- 14.11 The Licensing Authority commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and will have due regard to it where premises licensed under the Licensing Act 2003 are found to be stocking and selling produce in breach of the Code. The Code of Practice can be found at:

<https://www.portmangroup.org.uk/codes-advice/>

- 14.12 In order to assist potential applicants for the grant of, or variation to, a premises licence or club premises certificate this Authority provides a pre-

application advice service, details of which can be found on the Council's website.

15. Maximum Capacities

15.1 The type of entertainment offered in licensed premises and the closing hour of premises permitted to provide alcohol to the public often have a direct link to crime and disorder, public nuisance and public safety.

For example, there is generally more likelihood of crime and disorder and public safety problems occurring in a music and dance venue permitted to sell alcohol and open until 3am, than there is in a quiet back street pub that provides no regular regulated entertainment and closes at 11pm.

15.2 The Licensing Authority accepts that a lot of the problems that may occur in late night licensed premises may be controlled by good management practices. However, controlling the numbers of customers allowed into the premises may also assist in promoting the following three licensing objectives:

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

15.3 Therefore, where the discretion of the Licensing Authority is triggered through the receipt of relevant representations, the Authority will consider setting a capacity condition where this may be beneficial in promoting the licensing objectives mentioned in paragraph 15.2.

16. Mandatory Conditions

16.1 The Licensing Act 2003 (Mandatory Licensing Conditions) and the Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Orders 2014 required a number of conditions to be imposed on every premises licence issued permitting the sale or supply of alcohol. Full details of these conditions can be found at Appendix E.

17. Minor Variations

17.1 This Licensing Authority will assess any minor variation applications it receives and, where it feels that the variation could have an adverse effect on any of the four licensing objectives, it will consult with the relevant Responsible Authority/Authorities.

If the Licensing Authority, or any of the Responsible Authorities, has concerns about the application, it may be refused and a recommendation made to the

applicant to submit a normal variation application under section 34 of the Licensing Act 2003.

18. Shadow Licences

- 18.1 The term “shadow licence” describes the situation where a premises licence is granted to one party, typically the freeholder, in respect of a premises where another party (“the operator”) already holds a separate licence. The usual reason for this would be to protect the freeholder in case the licence holder surrenders the licence without giving the landlord any notice. For example if the licence lapses due to the death, insolvency or incapacity of the licence holder, or if review proceedings are brought against the licence and the licence is revoked, with the landlord not knowing this.
- 18.2 A shadow licence would typically be a licence mirroring the terms and conditions on the original licence, although this may not be the case if the original licence is older and conditions require updating or more relevant conditions are deemed appropriate. Examples of this could be; CCTV conditions, Incident log conditions, Delivery conditions, etc.
- 18.3 Applications for shadow licences will be considered on their own merits. Applicants are advised that there is no automatic right for the new licence to be granted on the same terms and conditions as the existing licence. When completing their operating schedule applicants should give due consideration to appropriate steps to promote the licensing objectives, and not rely solely on the existing licence conditions as these may be outdated or insufficient for the current operation of the premises.
- 18.4 There is no restriction in The Licensing Act 2003 on the number of licences that can be granted in respect of the same premises .
- 18.5 The Licensing Authority understands the reason for shadow licences, though also needs to ensure that measures are in place to use the sanctions available to it in response to a review of a licence at a premises with a shadow licence.

In this instance the Council as the Licensing Authority will also consider whether it is appropriate to review all the licences in effect at the premises in order to promote the licensing objectives. Where the applicant for the review is not the licensing authority it will encourage the applicant to also consider whether it is appropriate to review all the licences in effect at the premises, and will consider bringing a review of any other licence in effect at those premises if it considers it appropriate to promote the licensing objectives.

19. Temporary Event Notices (TENs)

- 19.1 Section 100 of the Licensing Act 2003 states that the organiser of a Temporary Event must give the Licensing Authority, the police and the Council's Noise and Nuisance team notice of the event.
- 19.2 Section 100(7) states that the organiser must give a minimum of ten working days' notice, not including the day of receipt of the TEN or the day of the proposed event. However, in a significant number of cases this time period would not allow enough time for the organiser to liaise with the fire authority, the police and relevant Council officers to ensure that the event passes off safely and with minimum disturbance to local residents.
- 19.3 The Secretary of State's Guidance mentions in paragraph 7.11 that "Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them"

In accordance with this section of the Guidance, this Licensing Authority would prefer that event organisers give at least 28 days notice of a planned event. In the case of events planned to take place within the Notting Hill Carnival 'footprint' during the Carnival weekend, this Authority recommends that TENs are submitted at least 12 weeks in advance (see Chapter 25). This will ensure that full discussion can occur between the organiser and any other interested parties in order that the event can take place with the minimum risk of crime and disorder, public nuisance and to the health and safety of staff and customers.

- 19.4 Additionally, the Licensing Authority prefers that Temporary Event Notices are **not normally** served on the Licensing Authority, the Metropolitan Police or the Noise and Nuisance Team any more than three months before the event is due to take place. (see paragraph 19.3 above for the Notting Hill Carnival exception)
- 19.5 Section 107 of the Licensing Act 2003 states that a personal licence holder may hold up to 50 Temporary Events each year and a person who is not a personal licence holder may hold up to five such events. Each Temporary Event may last for up to 168 hours, and an individual premises may hold up to 15 such events per year so long as the total number of days used for these events does not exceed 21.
- 19.6 It should be noted that the police and the Council's Noise and Nuisance team are the only bodies who may make representations to a Temporary Event Notice. However, these two bodies may object to a TEN on grounds that any

of the licensing objectives would not be promoted should the event go ahead. Where objections are received the matter will be put before the Licensing Authority's Licensing Committee. The Licensing Committee may:

- i) Allow the TEN to go ahead
- ii) Reject the TEN
- iii) If the premises where the TEN is proposed to take place already has a premises licence the Committee may allow the TEN but impose some, or all, of the conditions on the premises licence onto the TEN if appropriate.

19.7 Licensing legislation allows event organisers to submit up to 10 "late notices" per year if they hold a personal licence and 2 "late notices" if they do not hold a personal licence. These "late notices" can be submitted to the Licensing Authority, Police and Noise and Nuisance team between 5 and 9 days before the event, not including the day of receipt of the TEN or the day of the proposed event. It should be noted that if either the Police or the Council's Noise and Nuisance team lodges an objection to a late Ten the event will **not** go ahead. Additional information regarding TENs can be found on the Council's website.

19.8 **BUSKING**

The Secretary of State's Guidance states that 'Busking' is exempt from licensing requirements for the following reasons:

- it often occurs in a place that is not a premises made available (at least in part) for the purposes of providing entertainment;
- the entertainment is usually incidental to another activity, such as shopping or sightseeing, as there are few circumstances in which anyone would go out specifically to watch buskers; and
- any unamplified live music is not licensable between 08.00 and 23.00.

In addition, this Council has an approved 'Code of Conduct' for Busking within the borough. Paragraphs 4 and 5 of this 'Code of Conduct' states that:

- (4) Busking or street entertainment is only permitted between the hours of 10:00 and 19:00.
- (5) Buskers and street entertainers shall not use any amplifiers, loud speakers, megaphones or any similar equipment in their performance.

In order to comply with these two paragraphs of the 'Code of Conduct' any music would be considered to be 'live, unamplified', and, as it is also time restricted between 10am and 7pm, would be exempt from licensing

requirements. Similarly, any activities that could come under the heading of 'Plays', and 'Dance', are also not licensable between 8am and 11pm so long as any audience does not exceed 500.

The 'Code of Conduct' relates to the following areas of the borough:

Hans Crescent around the Harrods department store;
South Kensington Underground and **Thurloe Street;**
Exhibition Road near the museums, particularly the Natural History Museum;
Notting Hill Gate around the underground station entrances;
Portobello Road in and amongst the market traders;
Kensington High Street near the underground station and in the parade of shops closest to the underground;
Earl's Court Road Underground Station outside the underground on Earl's Court Road; and
Other London Underground Stations around the station entrances.

Any person considering providing any live, unamplified, music or street entertainment event in these areas may not need a permission under the Licensing Act 2003, and is recommended to contact the Events Team at: specialevents@rbkc.gov.uk or call 0207 341 5762 at the earliest opportunity.

20. The Licensing Committee and Sub-Committees

- 20.1 This Licensing Authority will have 15 Members of the Council sitting on its Licensing Committee. This Committee will have one Chair and one or more Vice Chair. It will divide into a number of Licensing Sub-Committees made up of three Members – normally one of whom will be either the Chair or one of the Vice Chairmen of the full Committee.
- 20.2 The full Licensing Committee will sit when it is considered appropriate to comply with any requirements of the Licensing Act 2003 or accompanying Regulations and such committee may well take place virtually as opposed to having a physical committee.
- 20.3 A Licensing Sub-Committee will sit to hear all applications for premises licences, club premises certificates, interim authorities, provisional statements, designated premises supervisors and personal licences that have attracted representations from either a 'responsible authority' or 'other person' and such hearing may well take place virtually as opposed to having a physical committee.

Members will not sit on a Licensing Sub-Committee determining an application for premises within their own Ward, although adjournment applications can be decided by members even if the premises is in their Ward.

- 20.4 Applications for premises licences, club premises certificates, interim authorities, provisional statements, designated premises supervisors and personal licences that do not attract representations will be issued as applied for; subject to any relevant mandatory conditions and such conditions reflecting those offered in the applicant's operating schedule.
- 20.5 A Licensing Sub-Committee will also sit (including virtually) to hear cases where the police and/or the Council's Noise and Nuisance officers have opposed a Temporary Event Notice on the basis that, should the event go ahead, one or more of the licensing objectives would not be promoted.
- 20.6 Decisions on whether a representation is valid or whether it is considered to be repetitious, frivolous or vexatious will be delegated to the Head of Environmental Health, or their deputy.

The Head of Environmental Health, or their deputy, will inform the author of a representation concerning an application, or for the review of a premises licence, in writing where that representation is considered to be repetitious, frivolous or vexatious and give reasons for their decision.

However, the Head of Environmental Health, or their deputy, may, on occasion, waive their delegated authority to make this decision and refer individual representations to the Licensing Sub-Committee for its consideration.

- 20.7 The Licensing Sub-Committee may refer any matter that it is unable to deal with because of the number of its Members unable to take part in the consideration or discussion of any matter or vote on any question with respect to it, to the Licensing Committee.
- 20.8 The Licensing Committee will refer any matter that it is unable to deal with because of the number of its Members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it, to the Licensing Authority.
- 20.9 Any decisions made by the Licensing Committee or Licensing Sub-Committee will be sent in writing to the applicant and any person who has made a valid representation forthwith.

21. Protection of Children from Harm

- 21.1 Access by children (i.e. those persons under the age of 18 years) to licensed premises will, generally, be a matter for the licensee unless conditions are required in order to promote the licensing objective of the 'protection of children from harm'.

21.2 Premises that may require conditions relating to access by children may include the following:

- a) Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking.
- b) With a known association with drug taking or dealing.
- c) Where there is a strong element of gambling on the premises (but would not normally apply to licensed premises with small numbers of Amusement With Prizes machines).
- d) Where entertainment of an adult or sexual nature is commonly provided.
- e) With a suspected or known association with child sexual exploitation.

21.3 On occasions, where relevant representations are received, it may be appropriate and proportionate to impose a condition on a premises licence banning entry to those premises by children under the age of 18 years. Options other than a complete ban will include:

- a) limitations on the hours when children may be present
- b) age limitations (below 18)
- c) limitations or exclusions when certain activities are taking place
- d) requirements for an accompanying adult
- e) full exclusion of people under 18 from the premises when any licensable activities are taking place.
- f) Measures/training in place for staff on how to deal with suspected truanting school children on the premises and how to recognise signs of potential child sexual exploitation.

21.4 Where large numbers of children are expected to attend any of the licensable activities, the Licensing Authority will normally attach the following condition to the licence when its discretion is triggered through the receipt of relevant representations:

"A minimum of one adult steward per 100 persons shall be provided. They shall be identified by the wearing of conspicuous clothing. Each steward shall be over 18 years of age and have training in the means of escape arrangements, first aid positions and other facilities in the premises."

21.5 In relation to cinemas and other premises used for the exhibition of films, the Licensing Authority recommends that the relevant operating schedule will include a stipulation that children will be restricted from viewing age-restricted films classified in accordance with the recommendations of the British Board of Film Classification or, where relevant, the Council itself.

Where a film is to be shown locally within the Authority's area and has not been classified by the British Board of Film Classification, an application can be made to the Authority for the film to be classified.

Applications should be made at least 28 days before the event. The film will be classified in accordance with the guidelines set out by the British Board of Film Classification. These guidelines can be found at: www.bbfc.co.uk.

- 21.6 Section 13(4) of the Act lists a number of 'responsible authorities' who may make comments regarding Premises Licence applications and who may apply for an existing licence to be reviewed. One of those 'responsible authorities' is defined in the Act as:

"A body which:

- (i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
- (ii) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters."

Paragraph 8.8 of the Secretary of State's Guidance states that:

"The licensing authority should indicate in its statement of licensing policy which body it recognises to be competent to advise it on the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board, or another competent body.

This is important, as applications for premises licences have to be copied to the responsible authorities in order for them to make any representations they think are relevant."

- 21.7 Under the Children Act 2004, Area Child Protection Committees (ACPC) have been replaced by Local Safeguarding Children Boards (LSCBs).

The Royal Borough's LSCB meets once every three months but applications relating to Premises Licences require any comments from the 'responsible authorities' within 28 days. Therefore, it would clearly not be appropriate to designate the LSCB as the 'responsible authority' in this area.

The policy of the Licensing Authority is that the 'responsible authority' in relation to the protection of children from harm will be the Council's Children's Services Department and, in particular, the Head of Safeguarding, Review and Quality Assurance in that Department. Members of the Council's Trading Standards Team are also available to give advice in relation to measures that can be taken to help prevent the sale of alcohol to underage children. The Council's Public Health Training Service also provides training in relation to underage sales, details are available on the Council's website.

22. Nudity and Striptease

- 22.1 Where an operator wishes to provide activities which include striptease or any other kind of nudity (for example, topless waitresses), an application will need to be submitted for a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 - and not a premises licence under the Licensing Act 2003.

23. Use of Plastic Glasses

- 23.1 This Licensing Authority is against the use of single use plastic glasses in its licensed premises and at 'one off' events within the borough. The adverse environmental impact of one use 'throwaway' plastics is immense and in the 21st century such use should be avoided. There are many alternatives on the market today including multi use polycarbonate plastic glasses and hardened multi use washable glasses.
- 23.2 The Licensing Authority would welcome operators taking a lead in their premises or at their events with the use of alternatives to single use plastics, in places where it is not practicable to use glass.

24. Significant/Major Events

- 24.1 The Licensing Authority supports the Metropolitan Police recommendation that for relevant events, a comprehensive risk assessment is undertaken by premises licence holders to ensure that crime and disorder and public safety matters are identified and addressed.
- 24.2 The Council recognises that the resources of the police and emergency services will be planned out and prioritised when major sporting or other public events are taking place in London.

Due consideration will be given by the Council to representations from the police in relation to licence applications for activity during such major events on the grounds of public safety and security, when police and other emergency services resources are insufficient to deal with the risks presented.

Where, as a result of representations from a responsible authority, it is identified that a licence or proposed event presents a risk that the licensing objectives will be compromised, it is likely that such applications will not be granted.

- 24.3 The Council's Events Team are also available to give advice regarding planned events within the borough. Further information and contact details can be found on the Council's website.
- 24.4 Licence holders should note that in the event of a failure to pay the annual licence fee this Authority will suspend the licence in accordance with section 55A Licensing Act 2003.

25. Notting Hill Carnival

- 25.1 The Notting Hill Carnival is a unique event which takes place annually in the north of the Royal Borough on the weekend of each August Bank Holiday. Carnival is Europe's biggest street festival, and is second only to Rio de Janeiro worldwide, attracting well over a million visitors over the weekend.
- 25.2 Many aspects of Carnival require licensing, in particular the sale of alcohol and the provision of amplified music. That, coupled with the immense crowds, the risks of criminal activity, and the risk to public safety, requires specific focus in this Statement of Licensing Policy. The operators of licensed premises, whether these be under the authority of a premises licence or a Temporary Event Notice (TEN – see section 19), must ensure that they promote the four statutory licensing objectives:

The prevention of crime and disorder
Public safety
The prevention of public nuisance
The protection of children from harm

The Council's aim is to have a safe and enjoyable Carnival.

- 25.3 The Carnival 'footprint' stretches from Harrow Road in the north, down to the Great West Road and Chepstow Road in the east, to Notting Hill Gate in the south and then Ladbroke Grove in the west. This Licensing Authority will pay particular attention to any application for a premises licence or to any TEN notification in this area, and its close proximity, that is intended to include the weekend of Notting Hill Carnival (Saturday, Sunday and Monday).
- 25.4 In particular, this Licensing Authority advises applicants for new premises licences, variations to existing premises licences, and TENs to demonstrate in their applications how their proposed activity would;
- (i) support the licensing objectives with regard to the prevention of crime and disorder, public safety, prevention of public nuisance, and the protection of children from harm
- (ii) not have an adverse impact on the existing high demands that the emergency services are under over the Carnival period.

- 25.5 This Licensing Authority expects that applicants will include in their applications the following:
- (i) How they have worked with the council's events team to ensure that there will be adequate toilet facilities (temporary or otherwise) within close proximity that are available for their patrons, where the premises licence application or TEN includes the on-sale of alcohol.
 - (ii) Details of how they will control the numbers of people at their venue, this is particularly applicable to TENs notifications.
 - (iii) Details of the stewarding and security arrangements and other crowd control measures that they plan to provide for their event.
 - (iv) Draft risk assessments and a draft management plan, unless arrangements are already in place with the Metropolitan Police and the Council.
- 25.6 This Authority expects that applicants, or potential applicants, discuss the contents of their draft event management plan with the Police/Licensing Authority prior to submitting their application/TEN, particularly if the activities to be applied for include a sound system.
- 25.7 This Authority expects that any Temporary Event Notices are submitted at least 6 weeks before the start of Carnival in order that the planned activities can be properly assessed and proper liaison can take place between the event organiser and the Police/Local Authority.
- 25.8 Applicants for premises licences should note that their application will take 4 weeks to administer if no representations are received, and up to 8 weeks if representations are received.
- 25.9 This Authority supports the recommendation from the House of Lords Select Committee on the Licensing Act 2003 (Session 2016-17 HL paper 146), and the response from the Home Office, in relation to multiple Temporary Event Notices being given in close proximity to each other. Extracts from both reports are shown below:

House of Lords Select Committee on the Licensing Act 2003:

'Conclusion / Recommendation 34:

Where it appears that notices are being given for TENs simultaneously on adjacent plots of land, resulting in effect in the maximum number attending exceeding the 500 person limit, we would expect the police or environmental health officers to object, and the licensing authority to issue a counter notice. We recommend that the section 182 Guidance be amended to make this clear.'

Government response:

'The Government believes that in every case it is important that licensing authorities focus on whether the premises user intends to exceed the 499 person limit. In such cases it is likely that the police should be engaged and, where this is done in a way which is contrary to the spirit of the law, that objections will be raised. We will amend the section 182 guidance to make this point clear.

If the number of people present on any premises (including staff, organisers, stewards and performers etc) at any one time exceeds 499 while licensable activities are being carried on under a TEN, the licensable activities would be unlawful and the premises user would be liable to prosecution. Under the Act a "premises" can mean any place. Premises will therefore not always be a building with a formal address and can include, for example, public parks (including plots within larger areas of land) and private land. The Act also permits multiple TENs to be given simultaneously where the limits are not exceeded in the case of each notice. The law therefore provides lots of flexibility and opportunities for premises users to hold a wide range of events in different circumstances.

In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises is, for example, an open field or a beer tent. The premises user should also provide a description of the nature of the event in order to assist the police and local environmental health authority in deciding if any issues relating to the licensing objectives are likely to arise. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time and it should be made clear how this will be achieved, for example if door staff are employed with counters. It is ultimately for the licensing authority to determine whether events should be allowed to go ahead in each case, based on the promotion of the licensing objectives and permitted limits. Where a notice is given correctly, the permitted limits are not exceeded and there are no objections from the relevant persons, the event should be allowed to take place, as is usually the case.'

In April 2018 the Government published a revised version of the Secretary of State's statutory Guidance which included the following paragraph in relation to TENs:

'7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.'

25.10 As mentioned in paragraph 25.5 (ii) this Licensing Authority will pay particular attention to the measures that are proposed in a Temporary Event Notice in the Carnival footprint to limit the numbers of attendees to 499 at any one time. The Licensing Authority places public safety at Carnival extremely highly and is aware of the dangers of 'human bottlenecks' in the Carnival footprint. These 'bottlenecks' can be easily caused by excessive numbers of attendees at TENs locations, particularly at the locations of sound systems. Organisers considering submitting Temporary Event Notices should

also consider the use of licensed SIA officers to ensure their event passes off safely and complies with the statutory requirements. Should representations be submitted against a Temporary Event Notice, on the basis that the maximum number of permitted attendees will be exceeded, the Licensing Committee will be highly likely to issue a counter notice, particularly where a number of TENs are in close proximity to each other, unless convinced that attendees will be restricted to the legal limit.

25.11 The Licensing Authority will consider the importance, significance and potential consequences of disregarding any evidence provided by the Police or Environmental Health Officers or other competent bodies, when considering contested licence applications/TENs.

25.12 Where relevant representations have been submitted in relation to a premises licence application, conditions such as those listed below may be attached to relevant premises licences for the Carnival period only:

- (i) No drinks to be supplied in glass or ceramic containers or vessels
- (ii) No external advertisements shall be permitted of alcohol promotions on the premises, which relate to promotions such as 'Happy Hours' or 2 for 1 drinks promotions, for example.
- (iii) No advertising of high profile artists or DJs.
- (iv) Alcohol shall only be sold when a personal licence holder is on the premises.
- (v) Where anyone at the event is carrying out a security function they shall be licensed by the Security Industry Authority.
- (vi) Where stewards are being provided, the Police should be satisfied that staff are suitably trained and experienced in maintaining crowd control at Notting Hill Carnival, by having agreed procedures with the Police, in advance.
- (vii) Where a premises licence allows the sale of alcohol beyond 19:00, i.e in licensed pubs and bars that operate throughout the year within the Carnival footprint, no patrons shall be permitted to enter or re-enter the premises on the Sunday and Monday of Notting Hill Carnival between 19:00 and 21:00. This condition may be attached to a licence in order that a Carnival 'close down' period can be implemented in order to promote the 'Prevention of Crime and Disorder' and 'Public Safety' licensing objectives. This condition is not intended to preclude existing customers leaving licensed premises to smoke and then re-enter.
- (viii) The permitted hours for the sale of alcohol, for premises licences and TENs operational only over the Carnival period, shall be between the hours of 10:00 and 19:00 on each of the Sunday and Monday of Notting Hill Carnival

- 25.13 New applicants for premises licences within the Carnival footprint are advised to consider making applications for time limited licences on a year by year basis.
- 25.14 Any premises licence application, or notification of a TEN, that fails to address the relevant points in this section of the Statement of Licensing Policy is likely to receive representations from the Metropolitan Police and/or the Council's Environmental Health Officers. Contested applications/TENs would then require a hearing by this Authority's Licensing Committee, which will make a decision based on the particular merits of the individual application/TEN.

26. Personal Licences

- 26.1 Under the Licensing Act 2003, Licensing Authorities will automatically grant applications for personal licences so long as the applicant: is 18 years or over; has possession of the qualification determined by the Secretary of State; has not had a personal licence forfeited within five years of the date of application; and has not been convicted of any relevant offence or any relevant foreign offence. Such applications will be dealt with by way of a purely administrative process within the Licensing Team.
- 26.2 All persons applying for a personal licence will be expected to produce a Disclosure and Barring Service Certificate dated no longer than one month before the application is made. The Disclosure and Barring Service can be contacted at:
<https://www.gov.uk/disclosure-barring-service-check/overview>.
If the Disclosure and Barring Service is unable to deal with requests for certificates, an application can be made at:
<http://www.disclosurescotland.co.uk/>.
- 26.3 The Metropolitan Police may make representations where the applicant has been convicted of a relevant offence, or relevant foreign offence. In such cases, the Licensing Sub-Committee will consider the matter and the application will be refused if the Licensing Sub-Committee decides that refusal is in the interest of the promotion of the prevention of crime objective. In all other cases the application will be granted.
- 26.4 The Council's Public Health Training Service provides training in relation to Personal Licences. Further details can be found on the Council's website.

27. Enforcement

- 27.1 This Council has produced an enforcement policy document for its Environmental Health Department. It can be viewed upon request, or at:

<https://www.rbkc.gov.uk/environment/environmental-health/environmental-health-policies-and-reports>

Any enforcement action taken in relation to the duties of this Licensing Authority under the Licensing Act 2003 will comply with the enforcement policy.

- 27.2 The Licensing Authority intends to take a 'graduated response' to any breaches of the Licensing Act, dependent upon the seriousness of the breach. This response will range from giving a verbal warning to the relevant person, a warning letter, issuing a simple caution, prosecution, review of the premises licence and revocation of the licence.
- 27.3 Under section 169A of the Licensing Act 2003 it should be noted that where a sale of alcohol has been made on the same premises to a minor on two or more different occasions within three months the premises licence could be suspended for a defined period.
- 27.4 When planning its inspection regime, the Licensing Authority has, in liaison with the Metropolitan Police, completed a risk assessment of all licensed premises within its area.

This Authority will adopt a risk-based inspection programme. In accordance with the Regulators Code only those premises identified as being 'high risk' premises will be routinely inspected. Officers will only visit premises where there is a reason to do so (e.g. as part of a complaint investigation).

This Licensing Authority also supports the 'Hampton Principles' of avoiding duplication when carrying out inspections and will endeavour to carry out its inspections of licensed premises in accordance with those principles.

Officers will also comply with the 'Regulators Code', which can be accessed at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

- 27.5 The Licensing Authority's Officers will normally carry out enforcement inspections, but will also use existing arrangements for joint inspections with Metropolitan Police officers and other partners such as Trading Standards officers on occasions.
- 27.6 This section of the policy refers only to inspections carried out to ensure that premises are complying with the conditions attached to their licences. Other pre-arranged inspections regarding technical issues and the safety of the actual building and equipment held in it will also be carried out where required.

- 27.7 When the law allows, the Licensing Authority will agree secure mechanisms to share information with other regulators about licensed premises, to help target resources and activities and minimise duplication.
- 27.8 This Licensing Authority recognises that certain licence holders e.g. Limited companies have a number of premises within and outside the borough. In order to ensure compliance issues are recognised and resolved at the earliest stage, the Licensing Authority will contact the Primary Authority for the business. Where there is no Primary Authority Partnership in place, licence holders are requested to give the Authority a single named point of contact, who should be a senior individual, and whom the Authority will contact first should any compliance queries or issues arise.

28. Review of the Licensing Policy

- 28.1 Under the Licensing Act 2003, the Licensing Authority must carry out a review of its Licensing Policy every five years. In accordance with the Act, the Licensing Authority intends to carry out a further full review of its policy no later than 2025 and, prior to publishing the revised version, it intends to consult fully with those groups and individuals consulted on this version.
- 28.2 In addition, within the five year period the Licensing Authority will review its Licensing Policy whenever it feels that relevant issues have arisen, for example, if any further significant amendments are made to the Licensing Act 2003. Issues that arise concerning implementation of the policy will be recorded in an issue log and taken into account during any review.

Appendix A

Glossary of Terminology

The Licensing Objectives are defined in the Licensing Act 2003 as:

- i) The prevention of crime and disorder
- ii) The prevention of public nuisance
- iii) Public safety
- iv) The protection of children from harm

Licensable activities and qualifying club activities are defined in the Licensing Act as:

- i) the sale by retail of alcohol
- ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- iii) the provision of regulated entertainment
- iv) the provision of late night refreshment.

For those purposes, the following licensable activities are also qualifying club activities:

- i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place
- ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place
- iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.

Regulated Entertainment is defined as:

- (a) a performance of a play
- (b) an exhibition of film
- (c) an indoor sporting event
- (d) boxing or wrestling entertainment
- (e) a performance of live music (but does not include 'incidental' music)
- (f) any playing of recorded music (but does not include 'incidental' music)
- (g) a performance of dance
- (h) entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining

that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

Other Person

is defined as:

- i) Any individual, body or business affected by the operation of a licensed premises, regardless of their geographic proximity to the premises.

Responsible Authority

is defined as:

- i) the Licensing Authority
- ii) a Local Health Body
- iii) the Chief Officer of police for any police area in which the premises are situated
- iv) the Fire Authority for any area in which the premises are situated
- v) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated
- vi) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated
- vii) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- viii) a body which:
 - (a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
 - (b) is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters
- ix) any Licensing Authority (other than the relevant Licensing Authority) in whose area part of the premises is situated
- x) in relation to a vessel:
 - (a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters

where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities

(b) the Environment Agency

(c) the British Waterways Board, or

(d) the Secretary of State

(e) a person prescribed for the purpose of this subsection

Temporary Event

is defined as the use of premises for one or more of the licensable activities for under 500 people during a period not exceeding 168 hours usually where a premises licence covering the licensable activity is not in place

Provision of late night refreshment

is defined as the provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11pm and 5am,
or

at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Hot food or hot drink

food or drink supplied on or from any premises is "hot" for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:

i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,
or

ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

Licensing Committee

means the Committee empowered under the Act to determine licensing applications. The term "Committee"

shall be construed to include the Licensing Sub-Committee(s) or full Licensing Committee, unless otherwise specified

The Hampton Principles

In 2005 the Government commissioned Sir Philip Hampton to consider how to reduce unnecessary administration for businesses, without compromising the United Kingdom's excellent regulatory regime. In his report '**Reducing administrative burdens: effective inspection and enforcement**' Sir Philip set out seven principles to be followed for better regulation of business as follows:

- i) regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources on the areas that need them most
- ii) regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take
- iii) no inspection should take place without a reason
- iv) businesses should not have to give unnecessary information, nor give the same piece of information twice
- v) the few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions
- vi) regulators should provide authoritative, accessible advice easily and cheaply
- vii) regulators should be of the right size and scope, and no new regulator should be created where an existing one can do the work
- viii) regulators should recognize that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection

APPENDIX B

USEFUL CONTACTS

If you wish to make any comments on the Royal Borough of Kensington and Chelsea's Licensing Policy, or if you want further information regarding the Licensing Act 2003, please contact:

Licensing Team Manager
The Royal Borough of Kensington and Chelsea
37 Pembroke Road
London W8 6PW

Tel: 020 7341 5601
Email: licensing@rbkc.gov.uk

Information is also available from:

The Home Office
Direct Communications
Unit 2 Marsham Street
London SW1P 4DF

Tel: 020 7035 4848
Email: public.enquiries@homeoffice.gsi.gov.uk
Internet: <http://www.homeoffice.gov.uk/drugs/alcohol/>

The Licensing Act and Secretary of State's Guidance can be viewed via:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Metropolitan Police Licensing Office can be contacted regarding licensing issues within the Royal Borough of Kensington and Chelsea on:

Tel: 020 7370 5319
Email: AWMailbox.licensing@met.police.uk

Responsible Authority contacts

Police:	The Police Licensing Office, Council Offices, 37 Pembroke Road, London W8 6PW AWMailbox.licensing@met.police.uk
The Fire Authority	Fire Safety Regulation: South West Area 4 Kensington and Chelsea Fire Safety Team London Fire Brigade 169 Union Street London SE1 0LL FSR-AdminSupport@london-fire.gov.uk
The Health and Safety Authority	The Team Manager, Health and Safety Team, Council Offices, 37 Pembroke Road, London W8 6PW environmentalhealth@rbkc.gov.uk
Unless the premises are normally under the jurisdiction of the Health and Safety Executive i.e. museums, when applications should be sent to: The Health and Safety Executive, Rose Court, 2 Southwark Bridge Road, London SE1 9HS.	
The local planning authority	Team Leader, Planning Enforcement, Planning Department, The Town Hall, Hornton Street, London W8 7NX planning@rbkc.gov.uk
The authority with a duty to minimise or prevent the risk of pollution of the environment or of harm to human health:	The Team Manager, Noise and Nuisance Team, Council Offices, 37 Pembroke Road, London W8 6PW noise@rbkc.gov.uk
The Child Protection body:	Angela Flahive, Head of Safeguarding, Review and Quality Assurance, Room 242, Kensington Town Hall, Hornton Street, London W8 7NX- angela.flahive@rbkc.gov.uk
The local Weights and Measures Authority	The Team Manager, Trading Standards Team, Council Offices, 37 Pembroke Road, London W8 6PW trading.standards@rbkc.gov.uk

Local Health Body

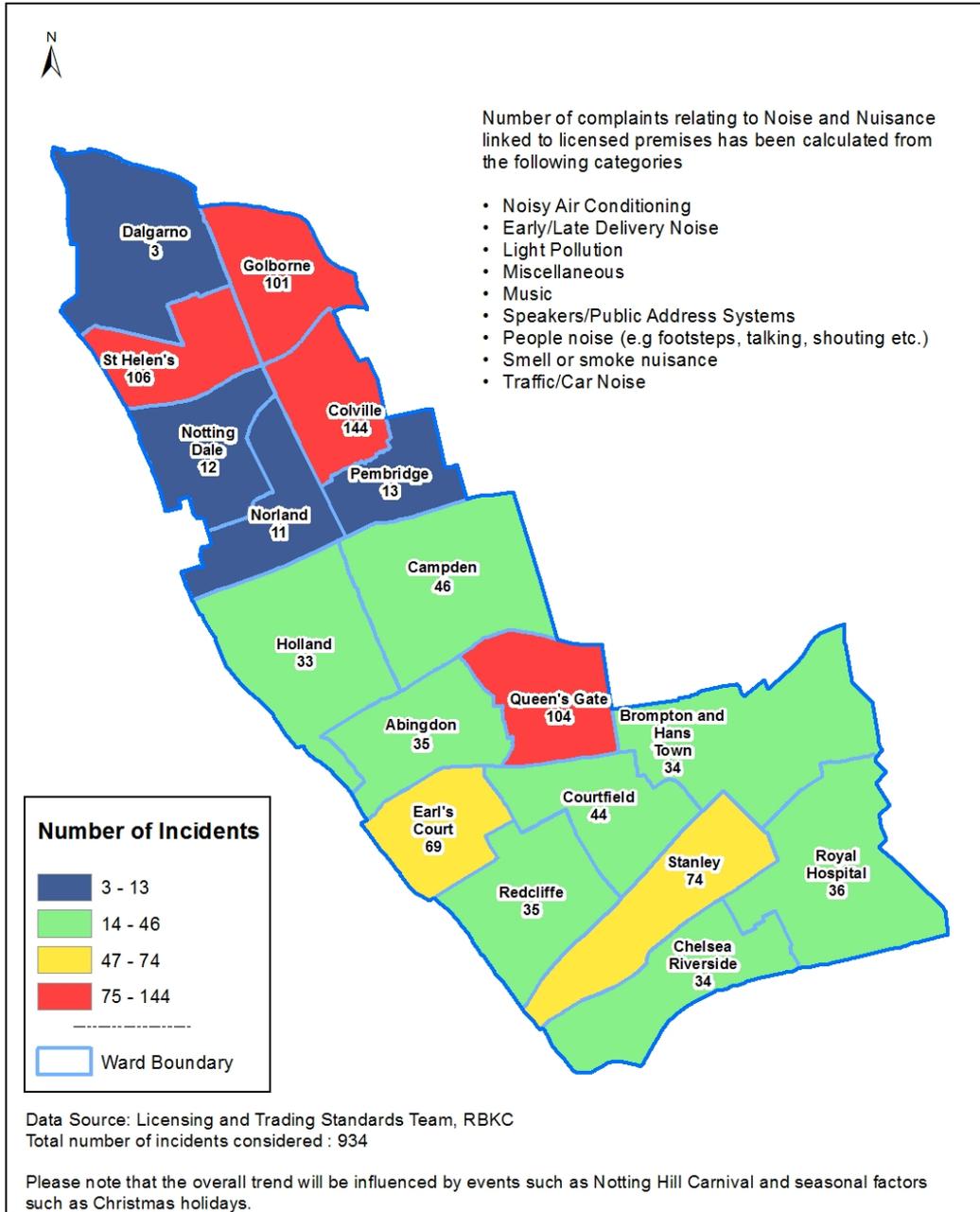
Director of Public Health, Tri-borough Public Health, Westminster City Council, 64 Victoria Street, London SW1E 6QP
PublicHealthDepartment@westminster.gov.uk

Home Office

Alcohol Licensing Team, Lunar House
40 Wellesley Road, Croydon CR9 2BY
(Only for applications for premises licences involving alcohol or late night refreshment)
alcohol@homeoffice.gov.uk

APPENDIX C

Noise and Nuisance Complaints 1st January to 31st December 2019



<p>Map showing the number of Noise and Nuisance complaints per ward in 2019</p>	<p>Ref: 0469 Date: 14/01/2020</p>	<p>Licensing and Trading Standards The Royal Borough of Kensington and Chelsea</p>
<p>© Crown copyright and database rights 2020 OS 100021668</p>	<p>Author: Shared GIS & Location Services Team</p>	<p>Council Offices, 37 Pembroke Road, London, W8 6PW.</p> 

APPENDIX D

Figure 1: Police nuisance antisocial behaviour reports 22:00 to 00:00
January 2019 – December 2019

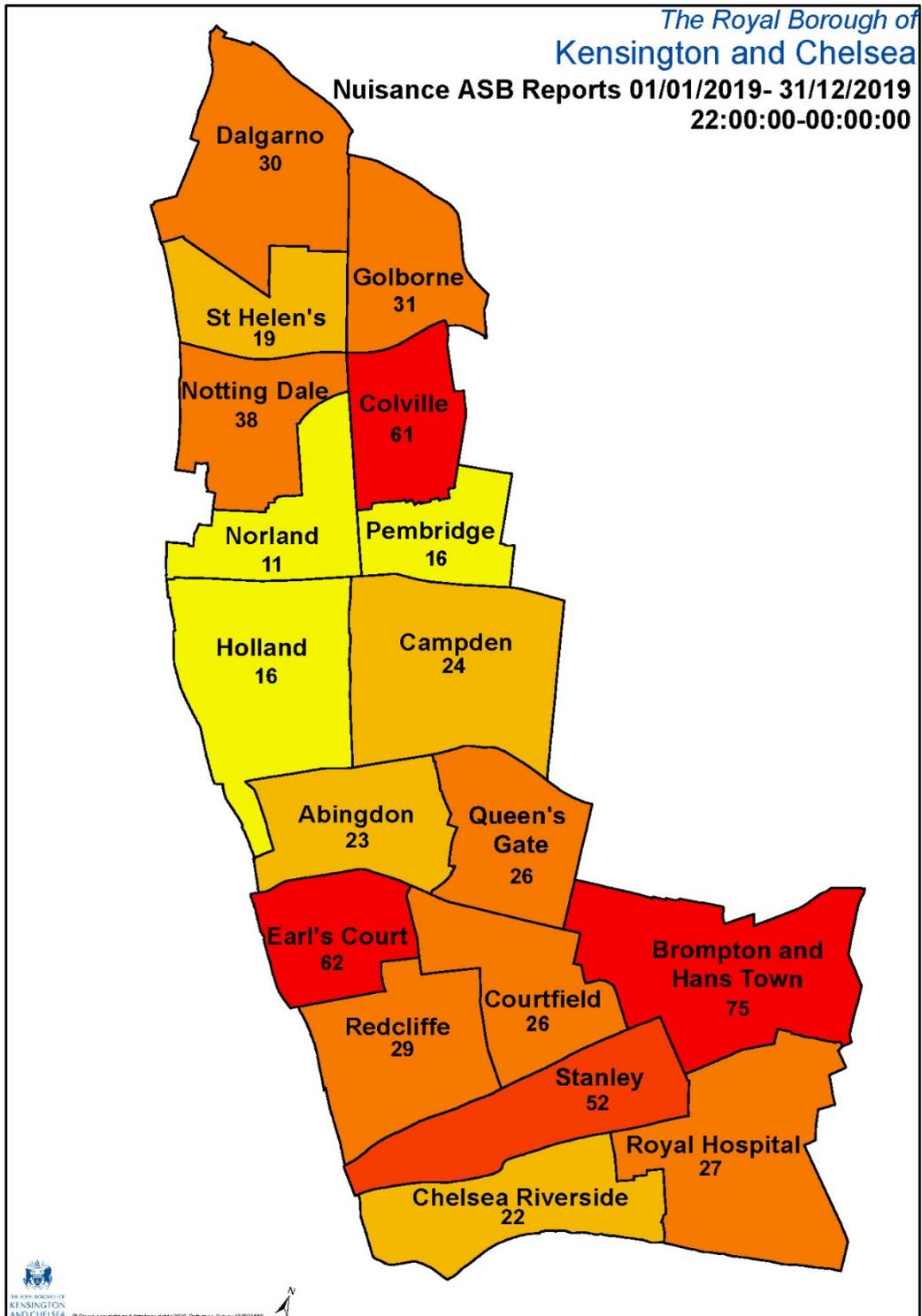


Figure 2: Police nuisance antisocial behaviour reports 00:00 to 02:00
January 2019 – December 2019

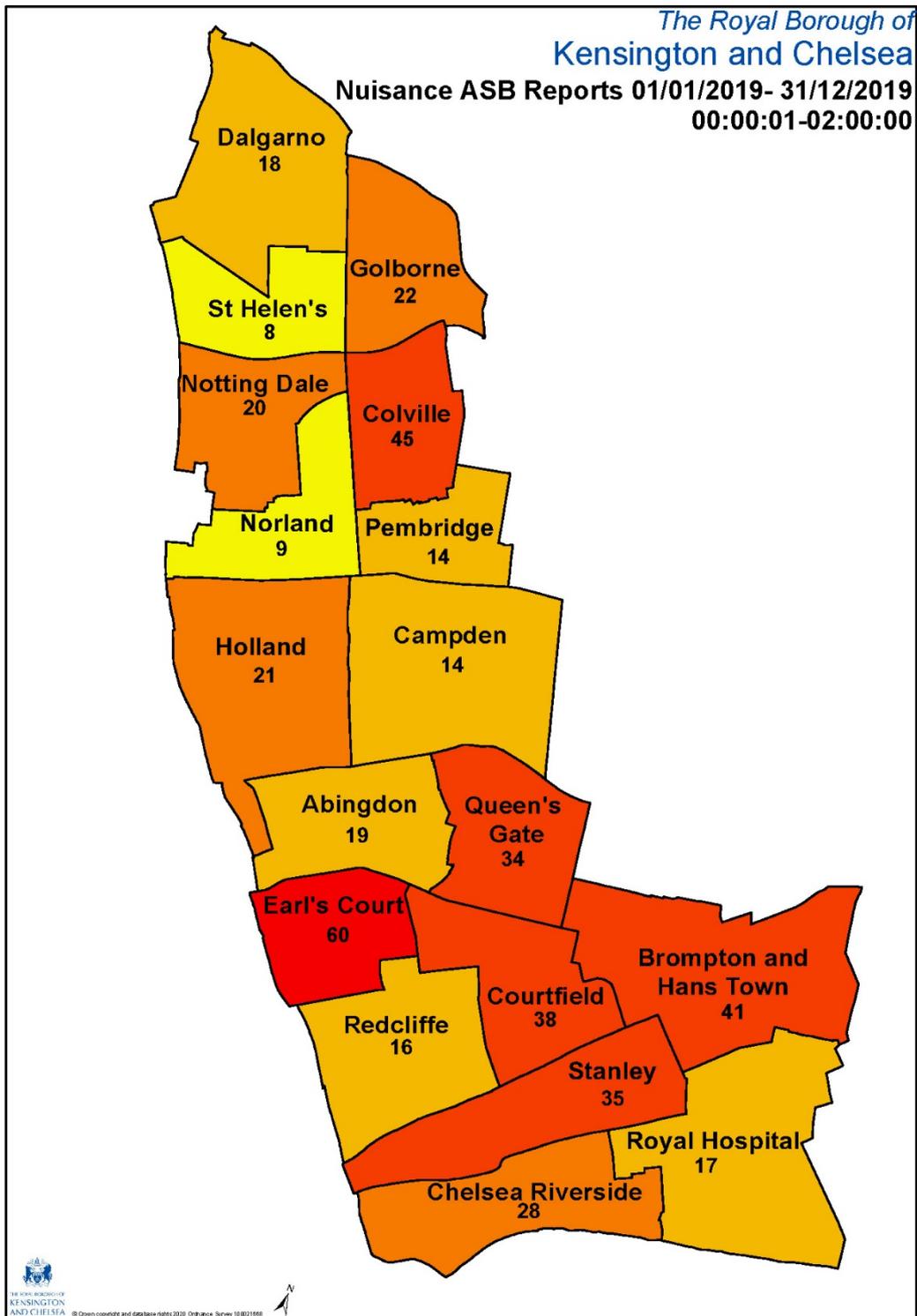


Figure 3: Police nuisance antisocial behaviour reports 02:00 to 04:00
January 2019 – December 2019

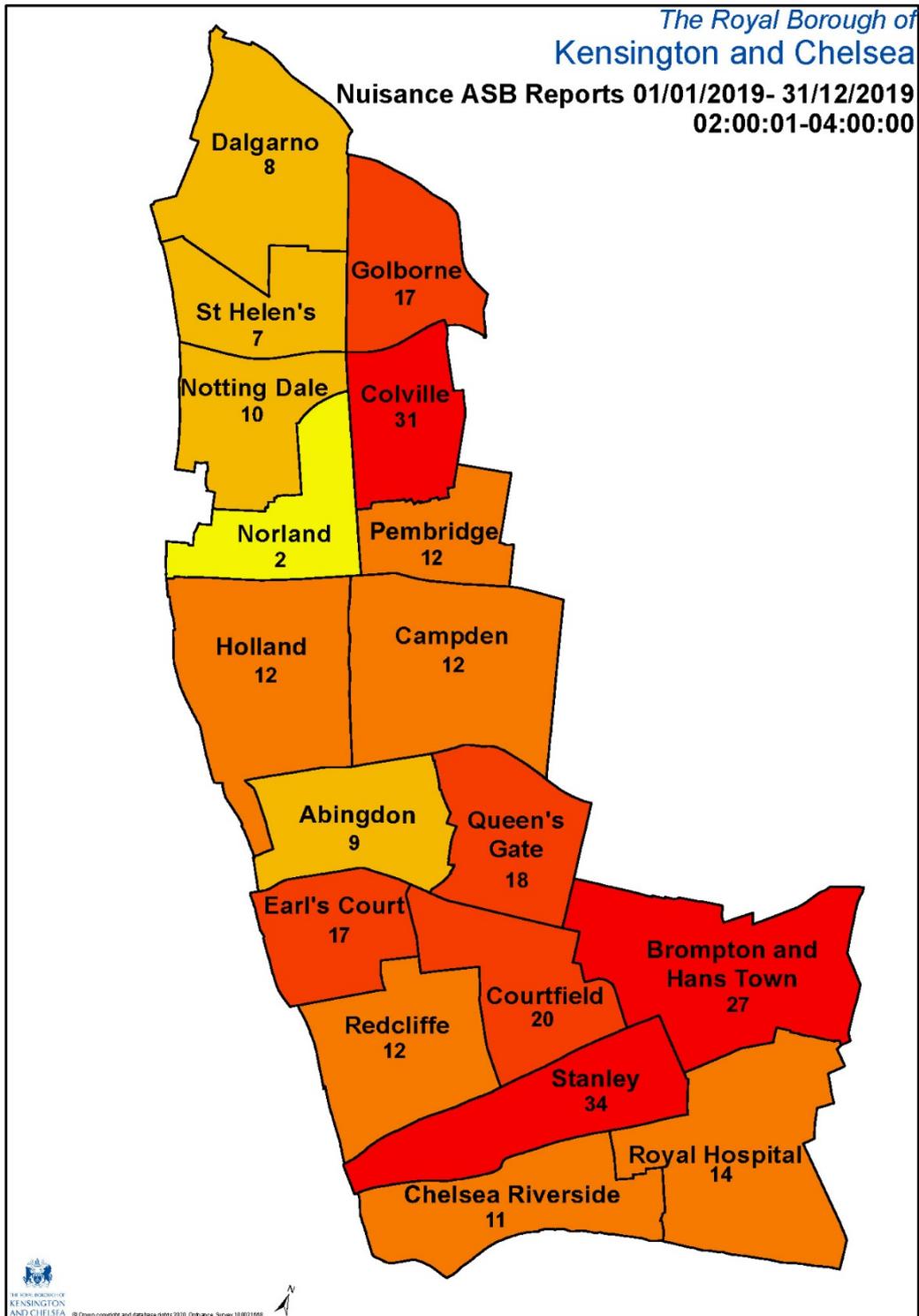


Figure 4: Police nuisance antisocial behaviour reports 04:00 to 06:00
January 2019 – December 2019

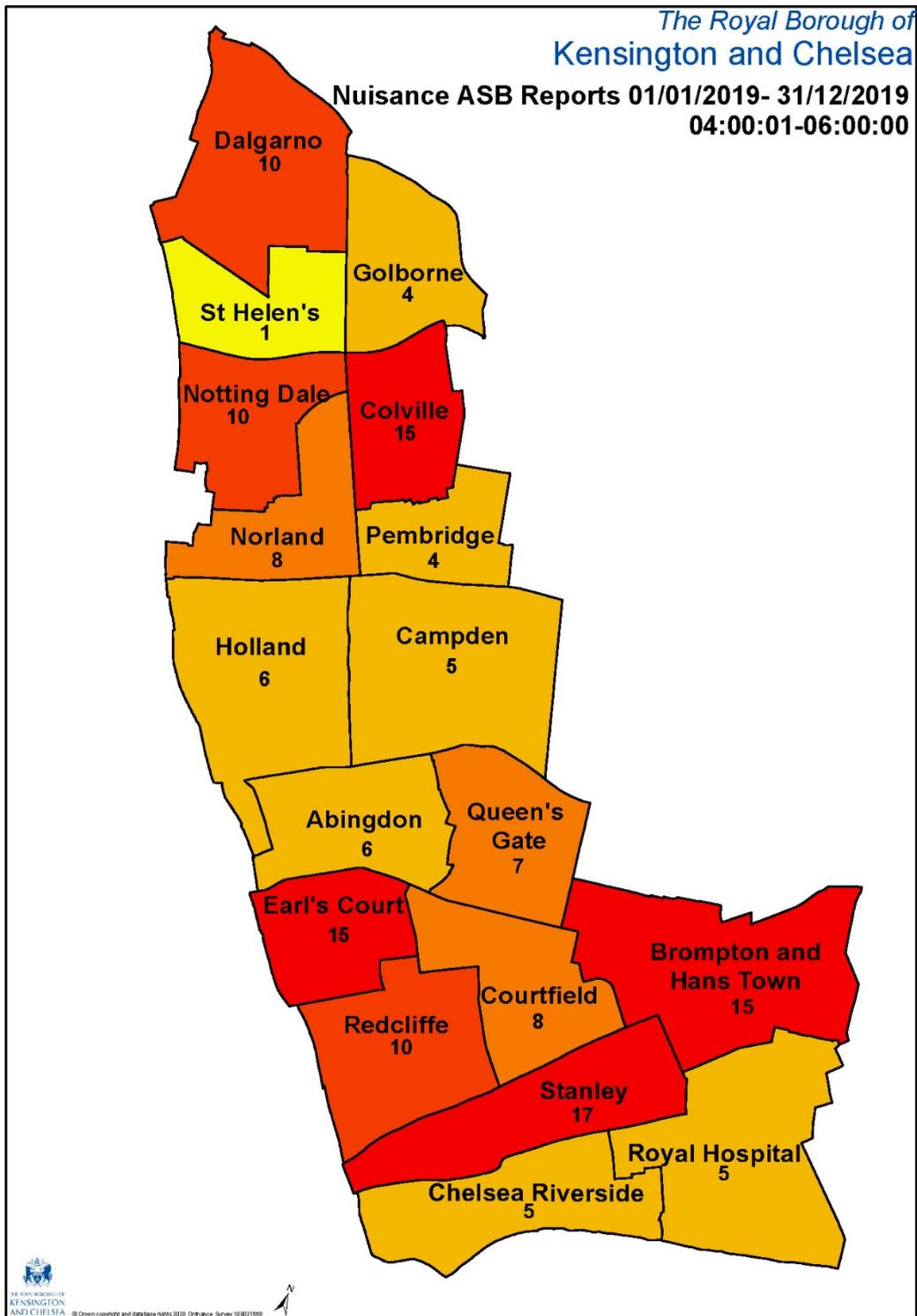
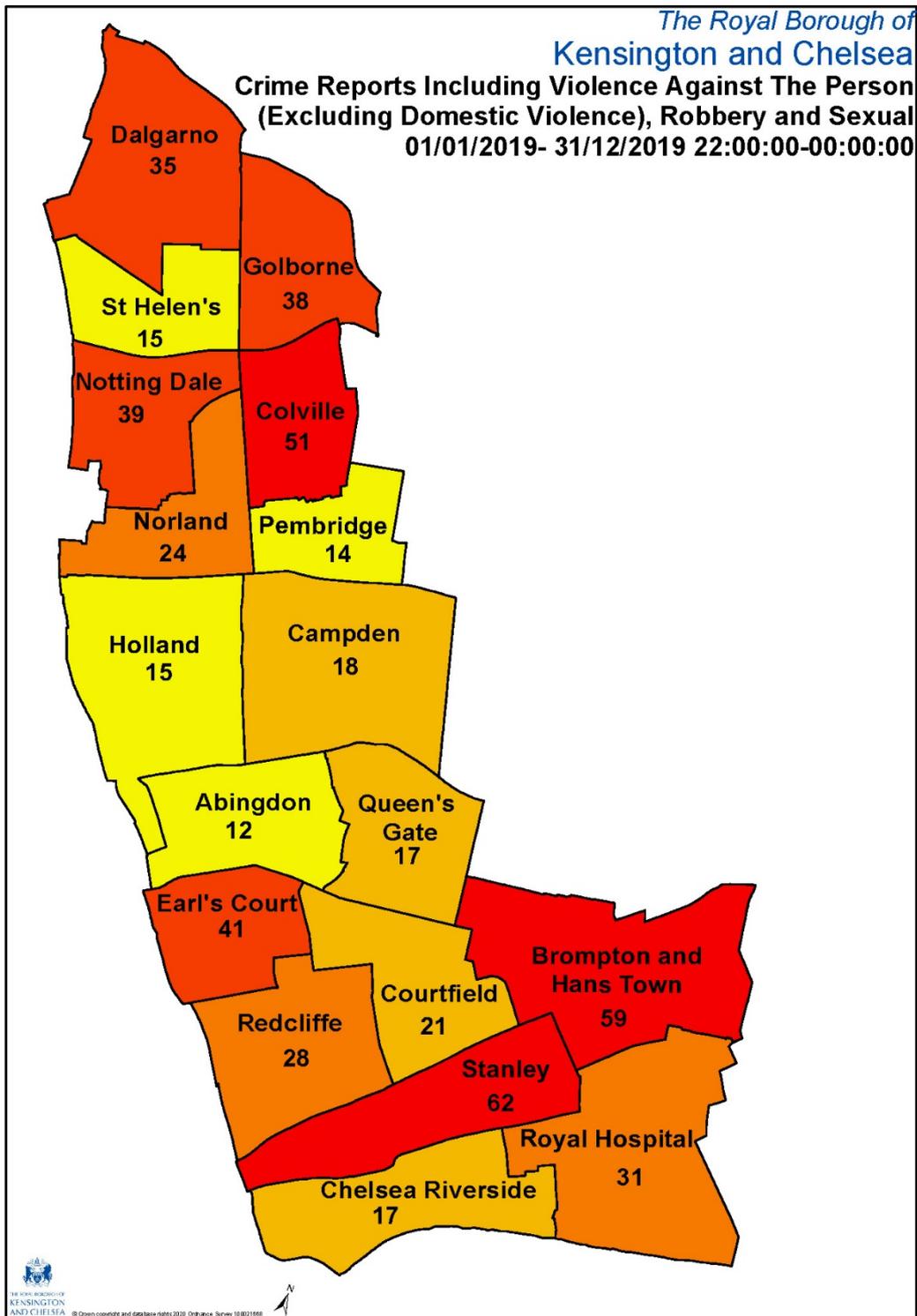
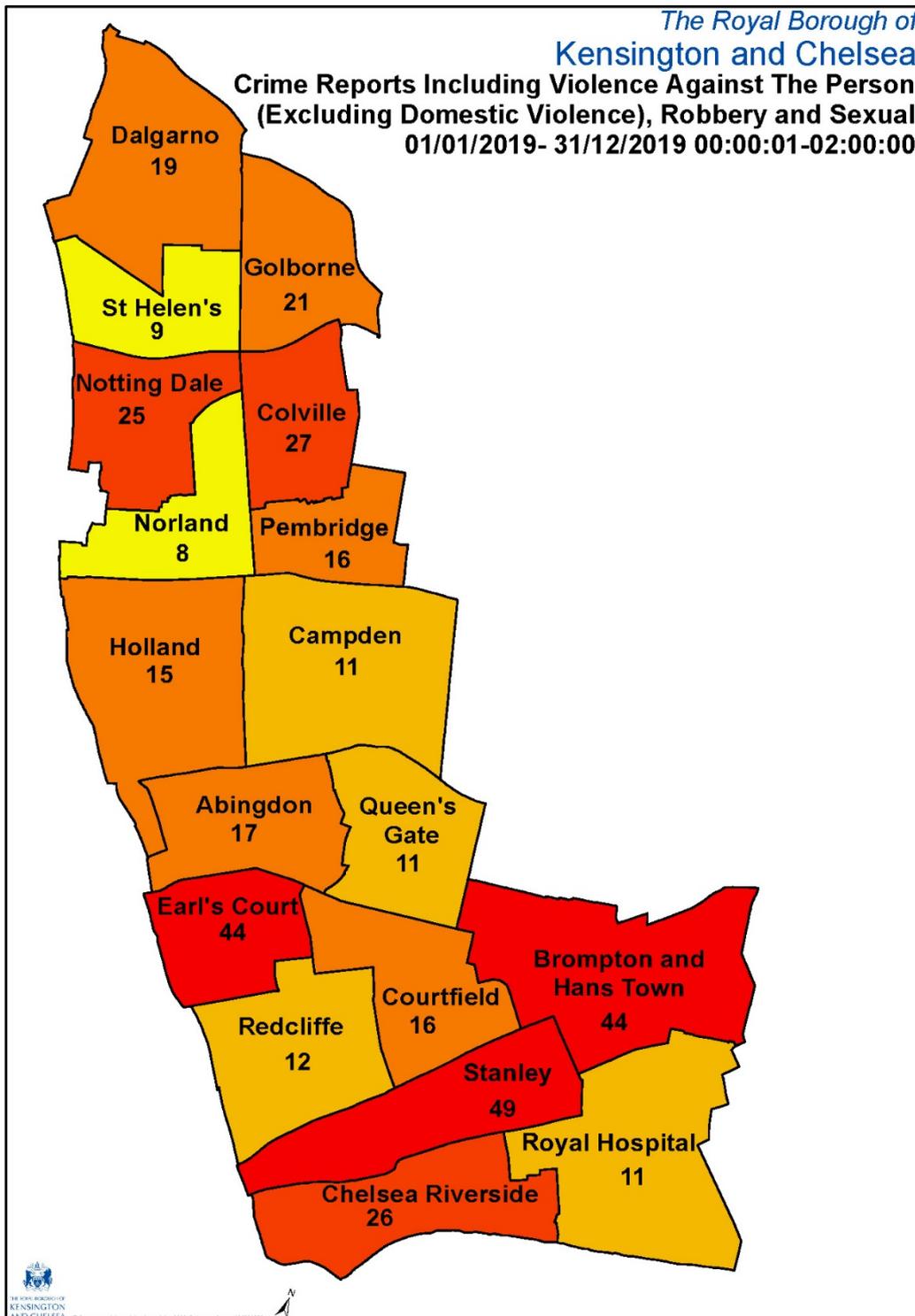


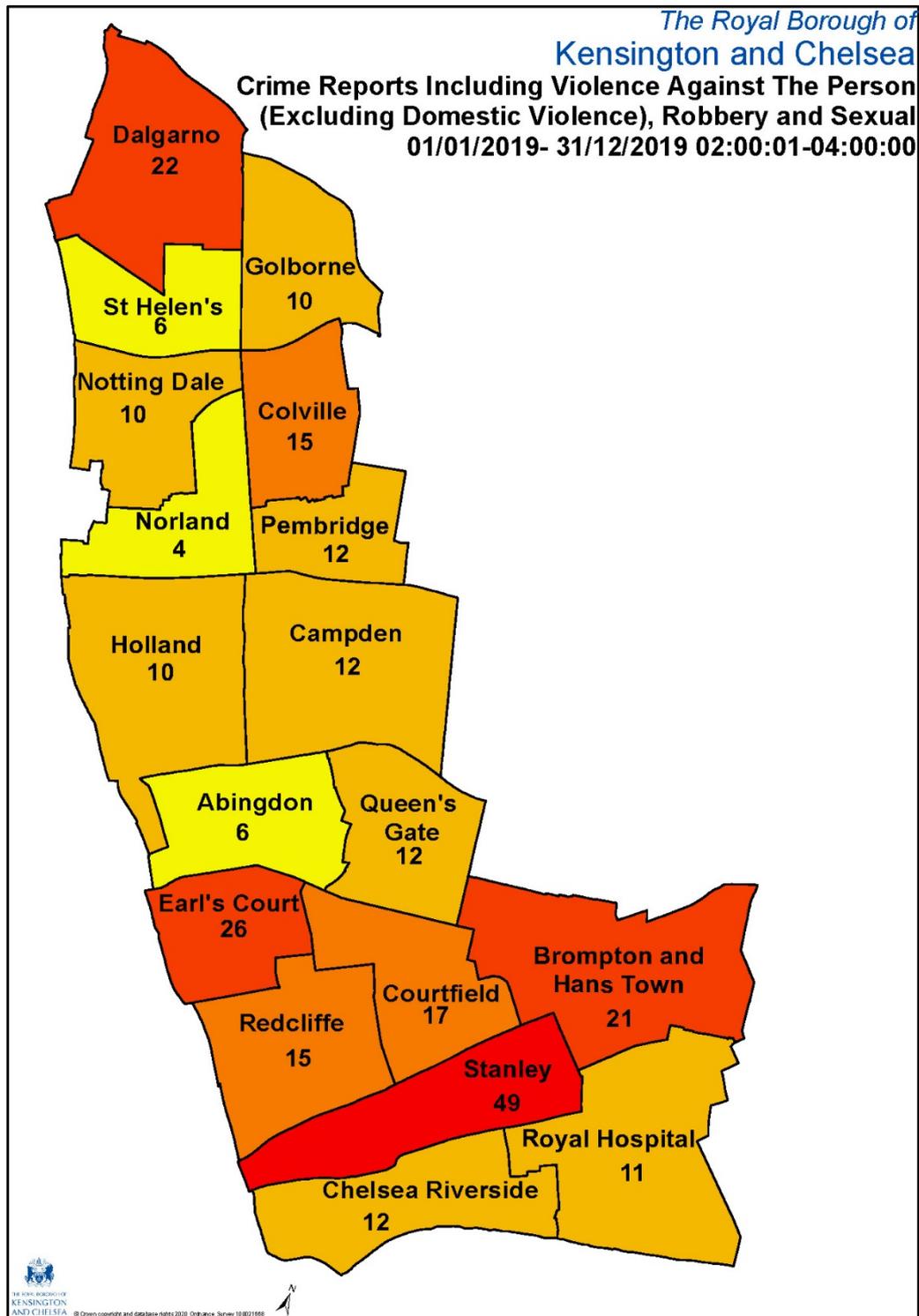
Figure 5: Violence against the Person, Robbery and Sexual Assaults January – December 2019
22:00 – 00:00



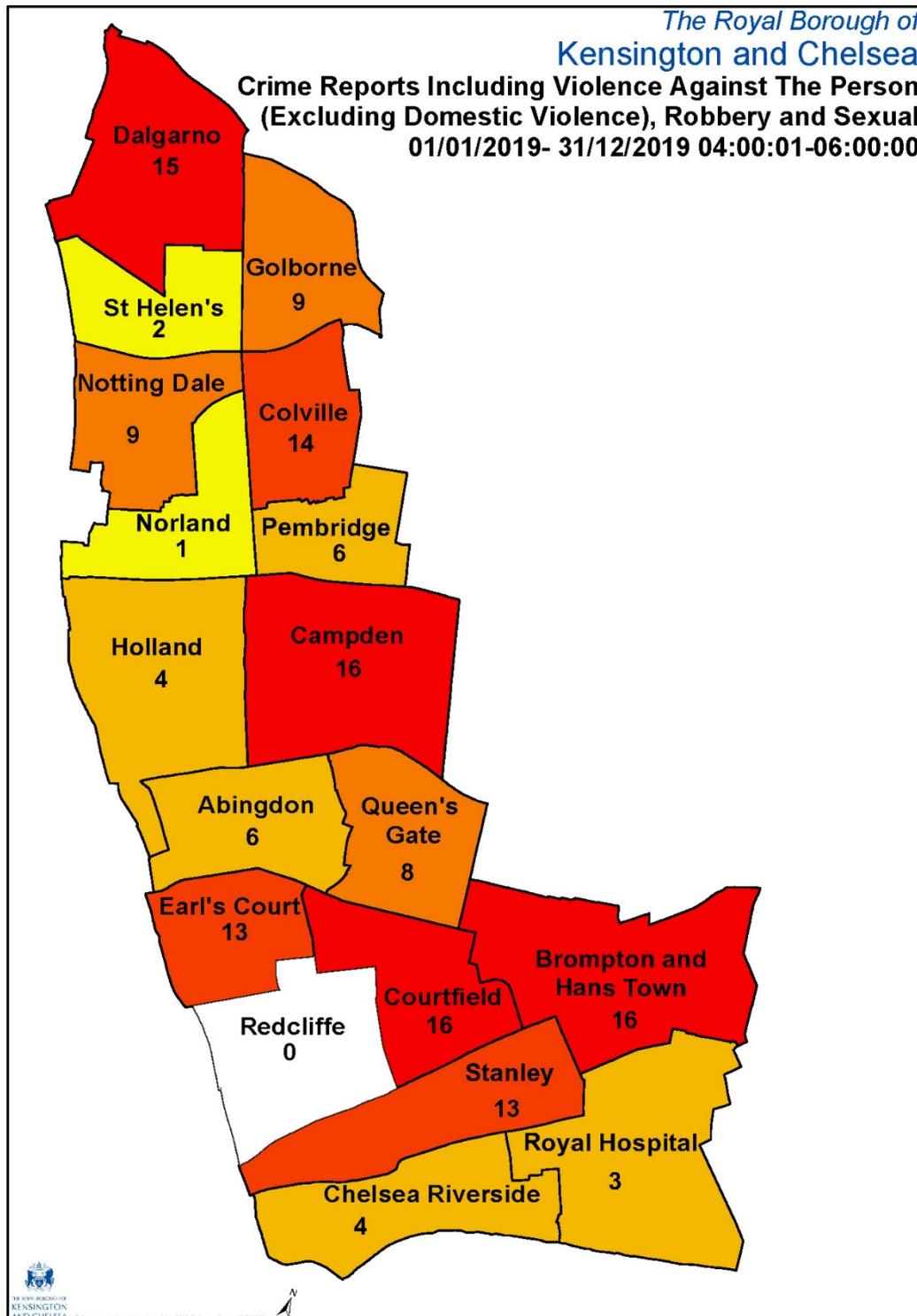
**Fig. 6 Violence against the Person, Robbery and Sexual Assaults January – December 2019
00:00 – 02:00**



**Fig 7 Violence against the Person, Robbery and Sexual Assaults January – December 2019
02:00 – 04:00**



**Fig 8 Violence against the Person, Robbery and Sexual Assaults January – December 2019
04:00 – 06:00**



APPENDIX E

MANDATORY CONDITIONS - 2014

- 1.** (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 2.** The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 3.** (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy)

to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

- 4.** The responsible person must ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Pricing of Alcohol Sales

- 1.** A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2.** For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula—

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

where—

- (i) P is the permitted price,
 - (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

- 3.** Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4.** (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Designated Premises Supervisor and Personal Licence Holder

- (1)** No supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (2)** Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.