



Reducing the
Harm of Shisha:
Towards a Strategy for Westminster
February 2017



City of Westminster

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Foreword

Shisha smoking is an activity enjoyed by some of Westminster's residents and visitors. It is offered commercially at a number of premises across the city and since the introduction of smokefree legislation it has become more visible, taking place outside premises and on the street, sometimes late into the night. This can have an impact on the amenity of public places for residents and our ability to manage the urban environment with our partners. There are also misconceptions about the health impacts of shisha smoking, with many smokers underestimating the harm it can cause.

This paper sets out proposals as to how we could reduce the harm caused by shisha smoking. We want to enable people to make informed choices and

help businesses operate sustainably and responsibly. We consulted with a wide range of stakeholders, partners and the public on these proposals. The paper reflects the responses we received as we refine our strategic approach. Shisha smoking is a complex issue about which our learning continues. We shall incorporate findings from the Shisha Symposium, hosted by Westminster in February 2017, and from all partners in developing and delivering this strategic approach.

We would like to dedicate this emerging strategy to the late Councillor Audrey Lewis, who put an extraordinary amount of work into developing our approach.

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Cabinet Member for Adult Social
Services and Public Health

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In recent years there has been a sharp increase in the numbers of people shisha smoking and in the number of shisha bars in Westminster. Shisha smoking is harmful to health and shisha bars can cause a number of amenity problems for residents and visitors leading to enforcement issues.

With the responsibility for public health having transferred to local councils on 1st April 2013, we have greater scope to take account of health in our service provision and decision making. Tackling the impact on health and nuisance issues caused by shisha smoking will contribute to the council's ambitions set out in City for All, to create opportunities for residents, businesses and visitors to make responsible choices, and to protect and enhance every neighbourhood as a great place to live, work and visit.

We want to develop a strategy to address the impact on health and the nuisance and harm caused by unregulated shisha smoking. We will continue to enforce against breaches of licensing and planning regulations and have commissioned initiatives to raise awareness on the risks of shisha smoking.

This document has been developed in consultation with key stakeholders and residents, taking into account comments raised during the public consultation that ran between December 2015 and February 2016.



Shisha Smoking in Westminster

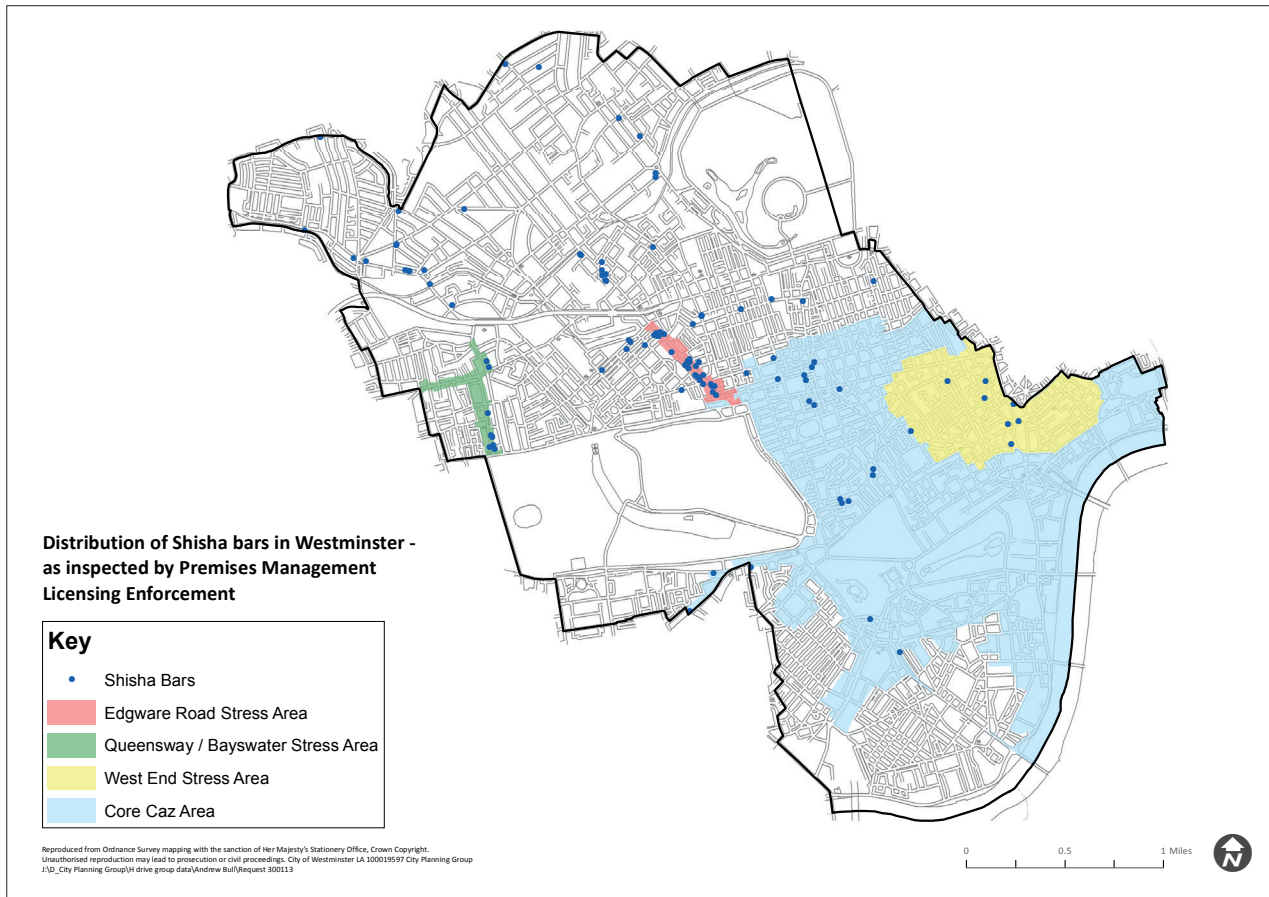
The number of shisha premises in Westminster has risen rapidly in recent years; the council's enforcement teams recorded approximately 60 premises in 2010, rising to well over 100, with new premises continuing to open.

WHAT IS SHISHA SMOKING?

Shisha smoking is a way of smoking tobacco or herbal smoking product (which can be flavoured) through a waterpipe or hookah. Shisha smoking historically has been most prevalent in Africa, the Middle East and South East Asia, but in recent years has gained popularity in Europe and North America. It should be noted that shisha smoking is banned in public places in some countries, such as Pakistan, with other Middle Eastern and Asian countries considering similar restrictions. In the UK shisha smokers have historically tended to come from these ethnic groups, although more recently shisha smoking has become popular with students and young people from all ethnic backgrounds. Shisha smoking is often a social activity, with people sharing waterpipes. It has traditionally been smoked at home, though it is also smoked in bars and cafes. While shisha bars are found across the UK they tend to be concentrated in major cities such as Manchester and Birmingham and other London Boroughs such as Brent and Tower Hamlets. In 2012, the British Heart Foundation surveyed local authorities and found a 210% increase in shisha premises since 2007.

WHERE?

In Westminster, shisha bars are now establishing themselves outside of what was thought of as the more 'traditional' areas for such activities in the north west of the City, on and around the Edgware Road and Harrow Road/Church Street. Still, though, the greatest concentration of shisha bars remains in the Edgware Road Stress Area (36% of all known premises). There are 19 premises in the Core Central Activities Zone and anecdotal evidence would point to this figure increasing as shisha smoking becomes more attractive to a younger, affluent, population that would include workers, visitors and students. There is also evidence of some fast food premises offering a home delivery service for shisha products.



The map above also shows the Stress Areas defined in *Westminster's City Plan: Strategic Policies* for planning purposes and in the *Statement of Licensing Policy* for licensing policy purposes. These areas were designated where the council considered that the over-concentration of cafés/restaurants/pubs/take-aways and other late night entertainment uses were causing significant amenity problems. 50% of known shisha premises in Westminster are located in the Stress Areas.

WHO?

Research commissioned in 2009 to understand better the scope and patterns of water pipe smoking and its associated impact on health in Westminster, suggested that the groups particularly affected in Westminster are young people and Arabic families. It also indicated significant numbers smoking at home as well as in public places. The former is likely to have more serious health implications given that it is in an enclosed space and children or infants may be present. The research also found that shisha smoking is more prevalent amongst a younger cohort who see the activity as an alternative to

cigarette smoking, trendy and giving a legal 'high'. It is not commonly thought as dangerous as cigarette smoking, due to the tobacco being flavoured and the mistaken belief that harmful effects of tobacco are filtered from the smoke.

ENGAGEMENT WITH THE COUNCIL

Businesses are not required to have a specific licence for shisha smoking, and there is no definitive list of premises in Westminster. Shisha smoking often starts in cafés and restaurants/bars as a very small operation but expands due to the profits that can be made. However, the council is aware of a number of premises involving shisha smoking through its licensing, trading standards, planning and enforcement functions. Our enforcement teams have records of 132 businesses that are known to involve shisha smoking, with new premises continuing to open. Information is also held by a number of different services in the council, such as Planning Enforcement, Environmental Health Services, Noise, Crime and Disorder Reduction and Public Protection officers.

EDGWARE ROAD STRESS AREA

As shown in the map on the previous page, the main concentration of shisha premises occurs on the Edgware Road with around a third of known shisha premises being located there. The council has been working in the area for a number of years to tackle concerns over unauthorised building uses, amenity, safety and security. The council supported the establishment of the Marble Arch Business Improvement District centred along the Edgware Road.

The Edgware Road Stress Area is designated in *Westminster's City Plan: Strategic Policies* for planning purposes and in the *Statement of Licensing Policy* for licensing purposes. Two other Stress Areas were also designated to cover the West End and Queensway/Westbourne Grove, where the amenity concerns arose largely from alcohol fuelled behaviour. This was not the case in Edgware Road; here the Stress Area was designated because of concerns over other factors including:

- the saturation of late night cafes and some entertainment uses;
- increased late night opening of premises;
- short term letting – affecting the amenity of permanent residents within established residential blocks due to noise and disturbance;
- noise – in particular associated with late night entertainment uses from people on the streets until late hours of the evening and early morning, and;
- anti-social behaviour and crime associated with prostitute carding and aggressive begging.

In 2012, in response to local concerns, the council reviewed its enforcement action in the wards of Hyde Park and Bryanston & Dorset Square. This review established that shisha premises were often not compliant with a range of planning and other licensing regulations. Over half of the premises the council was taking enforcement action against in the area were shisha premises. These breaches occurred in respect of unauthorised use of premises, unauthorised structures and alterations, breaches of conditions and licences, noise nuisance, smoke and odour complaints and highway obstruction.

A more recent review of licensing enforcement shows that shisha premises continue to account for a greater proportion of breaches impacting public safety and the prevention of public nuisance relating to unlicensed tables and chairs, charcoal burners, health and safety and smoking shelter offences.

Other uses such as pubs, restaurants and cafés can also cause smells, noise and disturbance from the operation of ventilation and air conditioning equipment, outdoor eating and drinking, and increased late night activity. However, these premises can be regulated through the licensing regime. Premises which sell alcohol, provide entertainment or sell hot food and drink after 11pm are required to have a licence which can impose conditions in relation to the operation and management of the premises. These conditions must be for the purposes of either: prevention of crime and disorder, prevention of public nuisance, public safety and the protection of children from harm. The council can review licences in light of complaints. This enables the council, as the licensing authority, to ensure these commercial activities taking place in public places can be enjoyed in a way that does not cause unreasonable nuisance, disruption or danger to others.

Unlike other types of premises, those offering shisha smoking are not required to have a licence, and cannot be regulated in the same way.

The council recognises health impacts, too, are not exclusively the concern of shisha smoking. We are particularly mindful of the links between excessive alcohol consumption and poor health, as well as the well known risks of other tobacco in other forms. The council is committed to delivering a wide range of actions and interventions to tackle key health concerns, as outlined in our recently published *Health and Wellbeing Strategy for Westminster 2017-2022*.





Shisha smoking can have a range of adverse impacts, the most directly on the individuals using waterpipes and from secondary smoke and fumes. However, it can also affect the quality of life for residents, as shisha smoking now takes place in outdoor spaces and occurs late into the evening. It can disturb amenity through noise and fumes.

Degradation of local amenity and quality of life for residents has an adverse effect on health. In addition, the prevalence of shisha smoking at tables and chairs outside premises can block pavements and make it more difficult for people to get around the city. There are also concerns in relation to links to crime, in particular the use of illicit, non-duty paid shisha products.

HEALTH IMPACTS

Studies have shown that many of those who smoke shisha are unaware of its health impact; often wrongly believing that because the smoke is inhaled through a waterpipe that it is 'safer' than traditional cigarette smoking. Whilst studies looking at the long term health effects of shisha smoking are limited, there is increasing evidence which suggests the health effects of shisha smoking are similar to or worse than those of cigarette smoke. This harmful impact of shisha smoking is recognised by Public Health England, Action on Smoking and Health (ASH), the British Heart Foundation and the National Centre for Smoking Cessation and Training.

The World Health Organisation has recognised the growing prevalence of waterpipe smoking globally and its harmful impact on health, and published an updated advisory note in 2015.

Shisha smoking can result in inhalation of tar, carbon monoxide, heavy metals and nicotine. Health risks include cancer, heart disease and respiratory disease. Sharing waterpipe mouthpieces can increase the risk of spreading infection including tuberculosis and hepatitis. Secondary smoke from water pipes and fuel sources also poses a health risk to non-smokers, particularly in the home where children may be present. Indoor shisha smoking can also carry the risk of carbon monoxide poisoning.

The council commissioned research into shisha usage, in particular looking at how it is used in Westminster and awareness of the health risks. Its findings, captured in *Public Health Implications of Shisha Smoking in London (2013)*, show that health effects of shisha may be analogous to those caused by cigarettes. It highlighted herbal shisha as a particular concern as, despite a lower nicotine content and a perception it was a healthier option, the smoke composition was similar to cigarettes. The report supported public health concerns on shisha smoking and that, as a minimum, a preventative approach should be taken.

Recently, there has been some use of electronic devices for smoking shisha, the impact of which has yet to be fully assessed.

AMENITY IMPACTS

In addition to its direct health impact, shisha smoking and the premises in which it takes place can give rise to or contribute towards a number of amenity and quality of life issues which can in turn impact the health and well-being of residents. For example:

- illegal indoor smoking ;
- outdoor smoking in structures that are unlawful or simply dangerous;
- dangerous equipment (with the risk of carbon monoxide poisoning); dangerous swinging of charcoal burners
- enclosures, tables and chairs/seating or equipment such as charcoal burners blocking the highway;

- noise and smells, which are very pervasive particularly late at night when impacts are exacerbated as residents are at home relaxing or wishing to sleep, and;
- the unauthorised change of use of premises.

Noise pollution is a significant problem in Westminster and can have serious effects on the health of the city's residents as well as having an adverse impact on general wellbeing and reducing quality of life. We published a Noise Strategy in 2009, the key aim being to contribute to improving the health and wellbeing of Westminster's residents, workers and visitors by reducing noise pollution and enhancing the city's sound environment. The strategy encourages noise conscious city management, planning and licensing.

CRIME

Shisha is liable for excise duty, whether it contains tobacco or not. An All Party Parliamentary Group on Smoking and Health held an inquiry into the illicit trade in tobacco products in 2013, and recognised that a significant proportion of shisha in the UK appears to be illicit, imported illegally with no duties paid. It is estimated that in the UK, illicit tobacco costs the taxpayer £2.2 billion a year, and is believed to be linked to low-level and large scale organised crime. Public Health England is currently undertaking research to understand better the trends, patterns and threats arising from illicit tobacco.





Towards a Strategy for Westminster

Given the increased prevalence of shisha smoking and the increased use amongst a wider cohort of people, the time is right for us, along with the Police and other stakeholders, to set out a proposed approach for dealing with shisha smoking that encompasses the wider issues of health and wellbeing, information and awareness, lobbying and enforcement.

The council aims to address three overarching goals:

- to promote the health of Westminster’s residents, workers and visitors
- to protect the amenity of neighbourhoods in Westminster, particularly residential amenity, and
- to enable businesses to operate effectively and to be well managed.

Our approach has three strands:



There are some objectives that can be implemented in the short term, with other objectives being medium to long term.



Given that many of those who smoke shisha are unaware of its health impact, it is imperative to engage with shisha smokers to raise greater awareness of the health risks. We need to look at how we can encourage changes in behaviour and challenge misconceptions about the safety of shisha smoking.

The range of different groups of people who smoke shisha will need to be addressed and initiatives will need to be sensitive to cultural attitudes. Access to smoking cessation services will also need to be considered, and we shall have regard to the approach taken by other countries with longer experience of shisha use.

The Public Health Team for Westminster invests more than £750,000 annually in tobacco control and stop smoking services. They commission Kick-It and Thrive Tribe which support Westminster residents who wish to give up smoking, run campaigns to raise awareness of the health harms of smoking, and promote smoke free homes and cars. The main focus for stop smoking support and campaigns is cigarette smoking given there are over 38,000 smokers in Westminster. Stop smoking support is available in GP practices, pharmacies and community venues such as libraries and markets throughout the borough. Specialist stop smoking advisors additionally work in health care settings such as hospitals, mental health care and maternity services. In 2015 1,467 Westminster residents, 3.8% of smokers, gave up smoking with the support of the 'Kick It' stop smoking advisors.

Some services and campaigns have specifically targeted shisha smoking, for example:

- Projects to raise awareness amongst the Bangladeshi and Arabic speaking communities about the dangers of chewing tobacco and shisha smoking
- Campaigns to target students, particularly during freshers' weeks at universities and colleges. This campaign included a YouTube video to illustrate the harmful impacts of shisha smoking on health in an accessible and informative way
- Workshops for young people looking at the health harms of Shisha
- Kick it are trialling shisha specific clinics and different models of support including group sessions for those wishing to give up smoking shisha.

In addition, the Tri-Borough Smoke Free Alliance, a partnership involving councils, health providers and the fire service, addresses a wide range of smoking and tobacco control issues, including smoking cessation, fire safety, licensing, prosecutions and cautions in relation to smoking offences, for example breaches of the Health Act regarding smoking in public premises.

Engagement also needs to be made with businesses, in particular on the range of regulatory requirements that apply and on good practice, which will help to address health and amenity concerns. We will be

producing business guidance for premises to advise them of the range regulatory requirements that need to be met with to operate a compliant, well managed shisha business.

Past examples of business engagement have included developing a code of practice for premises on the safe handling and storage of charcoal. We have also had discussions with businesses regarding the use of electronic starters to light charcoal instead of employing traditional methods of swinging charcoal, to address health and safety concerns.

EDUCATE AND ENGAGE: OBJECTIVES AND ACTIONS

Engaging with both shisha smokers and businesses to raise awareness of the health and amenity impacts of shisha smoking is key to helping change behaviour.

SHISHA SMOKERS

BUSINESSES/PREMISES

KEY OBJECTIVES

- Raise awareness among people who smoke shisha of the risks and health implications.
- Increase understanding that smoking indoors is an offence on the part of the smoker, as well as for the premises.
- Ensure shisha smokers interested in reducing/ stopping smoking are able to access appropriate services and support.
- Gain better understanding of the health impact of shisha smoking.

SHORT TERM

- Review smoking cessation services – availability, effectiveness, applicability to shisha.
- Review success of previous engagement initiatives (general smoking and shisha specific if applicable) across Tri borough and beyond.
- Increase awareness of business obligations under the law (for example Health Act, Environmental Health regulations).
- Provide adequate ‘warning’ to premises to support and pave the way for later enforcement activity where needed.

MEDIUM TO LONG TERM

- Deliver smoking cessation interventions and/or smoke free homes services, according to agreed plan.
- Awareness raising and behaviour change campaign for target groups in Westminster
- Commission research on health impact and usage as appropriate.
- Engage with businesses to educate them on their responsibilities and support them to comply.
- Develop as an advice note on regulatory requirements.
- Review success of previous engagement initiatives (general smoking and shisha specific if applicable) across Tri borough and beyond.
- Link in with existing local business partnerships to further reinforce messages to businesses.
- Focused, ongoing liaison with non-compliant businesses, monitoring improvements in compliance over time.



Some of the health and amenity concerns arising from shisha smoking can be managed using various regulatory powers, but areas of concern remain. Premises need to comply with a range of regulations that come under the council's licensing, trading standards, planning and enforcement functions.

SMOKE FREE LEGISLATION

The Health Act 2006 introduced legislation to ensure workplaces and public places which are substantially enclosed are smoke free, and this applies to businesses that offer shisha. As with cigarette smoking, it is legal to smoke shisha outside the premises provided the space is not 'substantially enclosed'. In Westminster, a number of premises are not compliant with this legislation as they are permitting indoor smoking. In addition, some outdoor spaces are breaching the limits of being 'substantially enclosed'. Fixed penalty notices can be issued to customers, while business owners can be prosecuted for a fine of up to £2,500. This level of penalty is not acting as a deterrent, though, as premises continue to trade despite prosecutions.

HEALTH AND SAFETY

Where a structure meets smoke free requirements and is not 'substantially enclosed', it must still ensure that its location allows for adequate ventilation to prevent smoke building up inside the structure, to meet health and safety requirements for staff and the public under the Health and Safety at Work Act (1974). Shelters need to ensure an adequate level of natural ventilation which will remove and prevent the build-up of smoke, in particular to ensure there is not exposure to a build-up of carbon monoxide.

The Management of Health and Safety at Work Regulations (1999) requires assessment of risk, and arrangements to minimise the risk to employees and members of the public when using premises. This can include cleaning of shisha pipes, safe storage and use of charcoal particularly where it is located on or carried over a public highway, and the safety of the structures erected and equipment used.

TABLES AND CHAIRS

A licence is required for tables and chairs on the street, which can stipulate numbers and permitted hours of use. This is under a street trading licence if on the public highway (City of Westminster Act 1999), or by conditions of a planning permission if on a private forecourt.

At present a street trading licence is sought only on the public highway. Legal opinion on the definition of what constitutes the 'street' for the purposes of requiring street trading licences is that it can include tables and chairs on forecourts within seven metres of any road or footway. This could allow us to introduce controls over use of forecourts for shisha but is not currently enforced as a matter of policy.

This notwithstanding, the placing of tables and chairs placed on the street and outside premises is considered to require planning permission in most cases.

HIGHWAYS

If premises are causing obstruction of the public highway by enclosures, seating or equipment such as charcoal burners, we can take action under the Highways Act 1980.

STATUTORY NUISANCE

If premises are causing nuisance from noise and fumes, we can serve a notice under the Environmental Protection Act 1990. There is no fixed level to constitute nuisance, but it must seriously affect an individual's use or enjoyment of their property for a period of time and be a frequent problem.

EXCISE DUTY

Since January 2014 all herbal smoking products such as those used for shisha smoking are liable for excise duty. Previously only tobacco products were liable. Businesses should be able to demonstrate they are selling legitimate products. Tariffs are approximately £100 per kilogram. It is likely that product available for sale around this amount or less has not been correctly declared. Supply of non-duty paid product is subject to seizure, with potentially further action from HMRC.

TOWN PLANNING

The Town and Country Planning Act 1990 (as amended) is the primary planning legislation. Planning permission may be required for structures which facilitate shisha smoking such as canopies, awnings, heaters affixed to walls, timber structures to enable tables and chairs to be placed on them etc.

We consider shisha smoking to be an identifiable land use and treat it as a sui generis use, that is, a use outside of any of the defined Use Classes in the Town and Country Planning (Use Classes) Order 1987 and subsequent amendments. Where shisha smoking is not ancillary to the main use of a premises and a material change of use is identified, planning permission will be required. There are no specific local plan policies on shisha smoking in Westminster's City Plan or Unitary Development Plan, but there are a number of considerations from a planning perspective. A key issue with regard to shisha smoking is the impact on residential amenity arising from noise, odour and fumes often late into the evening. In addition, the material change of use of premises to use for shisha smoking may lead to the loss of a retail unit or part of a retail unit's use thereby potentially reducing the vitality and viability of local shopping areas. Other issues might include alterations to shopfronts to make them fully openable to make the premises more conducive to shisha smoking and/or businesses operating outside of their permitted conditioned hours.

There has been some relaxation of planning controls with regard to certain town centre uses, for example allowing the change of use from a shop to a café without the need for planning permission. Whilst the council considers that shisha uses would still require planning permission, there may be an increase in the number of cafes which may then go on to introduce shisha use and create additional enforcement cases.

ANTI-SOCIAL BEHAVIOUR

The Anti-Social Behaviour Act 2003 gave powers to serve closure orders on premises which are associated with significant and persistent disorder, or persistent serious nuisance to members of the public. The council was the first local authority to implement these powers on shisha premises. Closure orders provided for temporary closure to give immediate respite to people affected by the anti social activity, and providing a period of time in which other enforcement and regulatory powers can be pursued.

These provisions were replaced in 2014 by the Anti-Social Behaviour, Crime and Policing Act . Under the new Act a community protection notice can be issued to stop businesses committing anti-social behaviour which spoils the community's quality of life. The tests are that the behaviour has to have a detrimental effect on the quality of life of those in the locality, be of a persistent or continuing nature and be unreasonable. A breach of notice is a criminal offence, and fines can be issued to businesses to up to £20,000.

WESTMINSTER'S CITY PLAN

We will be updating Westminster's City Plan, to include detailed policies for assessing planning applications and enforcement cases. A draft policy on shisha smoking is included in the consultation booklet 'Food, Drink, Entertainment, Tourism, Arts and Culture' (page 21). Updates on progress to the revision of Westminster's City Plan can be found at www.westminster.gov.uk/revision-westminsters-city-plan/

TRADING STANDARDS

Although there are varieties of herbal shisha that do not contain tobacco, in the majority of cases, the product as supplied will contain (among other things) tobacco. Once established as a tobacco-containing product, the relevant aspects of Trading Standards tobacco control legislation will apply in a broadly similar way to familiar tobacco products such as cigarettes.

Shisha products containing tobacco must not be sold to persons under the age of 18. An A3-sized notice with characters of at least 36mm high displaying the following statement - *'It is illegal to*

sell tobacco products to anyone under the age of 18' - must be displayed at every premises at which tobacco is sold by retail.

Shisha products containing tobacco must also be marked and labelled correctly. Any packet containing tobacco shisha products should bear a health warning.

FIRE SAFETY

Premises need to have regard to potential fire risk and comply with the Regulatory (Fire Safety) Order 2005. Typical issues of potential fire risks and hazards include: lit coals and lack of appropriate ventilation within premises, inadequate fire risk assessment to identify the hazards and risk and implement general fire safety precautions, locked rooms and locked fire exits, lack of emergency lighting and appropriate firefighting equipment. The London Fire Brigade Westminster Borough Team is seeking to increase joint working with other stakeholders including council officers regarding shisha smoking within premises.

LICENSING OF LATE NIGHT REFRESHMENT

Under previous licensing legislation, premises serving refreshment between midnight and 5am were required to have a Night Café Licence. This included 'sit down' cafes not serving alcohol. However, the Licensing Act 2003 removed the need to hold a licence to provide cold food and drink after 11pm. Licences required for late night refreshment now apply only to hot food or hot drinks and the sale of alcohol. Premises which serve cold food, cold drinks and offer shisha smoking therefore do not require a licence.

A recent development identified by officers is premises offering shisha smoking with alcohol added to the water through which shisha is inhaled. This adds another dimension to licensing considerations.

PUBLIC HEALTH

With the responsibility for Public Health having transferred to local councils on 1st April 2013, there is greater scope for us to take into account the health impact of shisha smoking in all of our decision making and regulatory services.

REGULATE THE ACTIVITY: OBJECTIVES AND ACTIONS

There is a range of regulatory tools which can be used to help to limit the impact of shisha smoking, involving a number of different services and agencies. Enforcement is resource intensive, and available powers are limited. We want to optimise use of available powers in a coordinated and cost effective way.

KEY OBJECTIVES

- Develop a balanced, proportionate and effective enforcement approach based on the principle of ensuring the responsible provision and use of shisha which minimises the anti-social behaviour, nuisance, public health and business compliance issues that can be associated with it.

SHORT TERM

- Develop and agree a fully costed and resourced enforcement approach, based on analysis of how to combine the range of powers (Licensing, Highways, Planning, Environmental Health, Trading Standards and involving the Fire Authority) to best effect, including a full Equalities Impact Assessment.
- Develop and pilot approach to implementing new powers under the Anti-Social Behaviour, Crime and Policing Act.
- Agree way forward on key issues:
 - Whether to pursue wider implementation of street trading powers to require street trading licences forecourts within seven metres of the public highway could enable the council to introduce control of nuisance premises.
 - Whether to pursue fixed penalty notices to customers as well as, or instead of prosecutions.
 - Approach to tobacco product labelling of shisha pipes.
 - Target enforcement action on the most problematic premises.
- Look at how we can coordinate better across the council and with partners, sharing information to understand the scale of the problem and focus efforts most effectively.

MEDIUM TO LONG

- Implement the agreed enforcement approach, coordinated across all relevant service areas and teams.
- Implement necessary changes to strengthen business processes to support the coordinated enforcement approach.
- Develop specific local plan policy for shisha smoking, based on a robust evidence base.

LOCAL PLAN POLICY

A new policy is being proposed for inclusion in the local plan, Westminster's City Plan, to consider planning applications to use premises and outdoor areas for shisha smoking. The draft policy that has been consulted on, will consider the impact on:

- residential amenity;
- local environmental quality;
- the character or function of the area, in particular potential negative impact upon vitality or viability of shopping centres;
- health and safety, including levels of crime, anti-social behaviour and night-time disturbance

The council will also take into account any existing concentrations of shisha premises and other uses which occur late at night.



The growth in shisha bars and the associated impacts are not just an issue in Westminster; it is a growing concern in many towns and cities across the country, and requires a multi-agency response at a national and local level.

We are, therefore, engaging with our Tri-borough partners, Public Health, the London Fire Brigade and other authorities and organisations, to support efforts on tackling the problems associated with shisha smoking.

We are particularly interested in lobbying for shisha smoking and sales to be an activity that is licensed, to address the anomaly that while selling a cup of tea after midnight requires a licence, none is required for selling shisha.

The council is part of the Tri-borough Smoke Free Alliance which brings together partners from across the three councils, local service providers and organisations to address a wide range of issues relating to tobacco control and the harm to health from all forms of tobacco use, including both cigarette and waterpipe smoking. The Tobacco Control Strategy underpins the work of the Alliance and includes an Action Plan with 38 key outcomes. Two outcomes are specific to shisha – to reduce the prevalence of Shisha smoking in Westminster and to increase the number of premises that are compliant with the Health Act. The Smoke Free Alliance and the Tobacco Control Strategy are regularly reviewed and will be updated in due course.

We will work in close collaboration with the Smokefree Alliance on their targeted communications and behaviour change work to educate and engage people on shisha issues. We secured funding from the Smokefree Alliance to deliver our symposium event in February 2017, to raise awareness of the risks of shisha smoking and options for managing the impacts.

We have participated in the first National Shisha Conference to share approaches, best practice, and issues for lobbying with other local authorities. We have also contributed to a dedicated publication on shisha being prepared by Public Health England to support local authorities in enforcement and preventative work to reduce the harm from shisha smoking.

We have also considered the health impact of shisha through our Policy & Scrutiny Committee process, inviting speakers from London Borough of Newham, the Chartered Institute of Environmental Health, Action on Smoking and Health (ASH) and the British Heart Foundation. The Committee commissioned a report by Imperial College, *Public Health implications of Shisha Smoking in London*, which reviewed the health effects and prevalence of shisha smoking, knowledge and attitudes of smokers, and the responses taken by local authorities.

LOBBYING AND PARTNERSHIP: OBJECTIVES AND ACTIONS

Shisha smoking is a London wide and national issue and it is important to work with and learn from relevant agencies. There is no dedicated legislation that specifically regulates shisha smoking. Current regulatory powers have not enabled us to work effectively with shisha businesses to ensure they are compliant within a reasonable timeframe and for the long term. Changes to legislation could enable premises to be better regulated and managed.

KEY OBJECTIVES

- Make connections with partners who have an interest/role in managing shisha smoking.
- Approach relevant partners and explore opportunities for joint initiatives.
- Longer term, lobby for shisha to be recognised by law as a licensable activity, and require shisha businesses to be regulated.

SHORT TERM

- Build on existing relationships and continue conversations with Tri borough, other local authorities, NHS, London Councils, GLA, DCLG and others to understand synergies and opportunities to support shisha work.
- Explore potential links with crime and potential benefits of joint working with the police.

MEDIUM TO LONG TERM

- Explore opportunities to lobby for greater penalties to provide credible deterrent for non-compliance.
- Approach HMRC to explore joint working opportunities. Lobby for dedicated resources.
- Explore opportunities to lobby for shisha to obtain status as a licensable activity (possibly inclusion under 'late night refreshment' regulations) to enable more effective management of this issue through purpose built legislation.

PENALTIES

Between April 2011 and 2013 we undertook 48 prosecutions under the Health Act against shisha cafes for the offence of allowing smoking in a smoke-free area. These prosecutions resulted in fines of approximately £9,000 and costs of £14,000 for the council. However, it is considered that many of these premises are seeing the risk of prosecution outweighed by the profit to be made from shisha. In a large scale, coordinated enforcement operation by Westminster City Council officers, the Police and HMRC in 2016, two premises were subject to a number of enforcement notices and criminal charges. Over 500 shisha pipes were seized, along with a huge quantity of tobacco product. Nevertheless, the premises were trading once again within 48 hours, demonstrating the limitations there can be on achieving long term compliance under current regulatory regimes.



ILLICIT TOBACCO

The scale of the problem of illicit tobacco is demonstrated by the raid of a premises in Harrow Road in 2013, where trading standards uncovered 800kg of tobacco for processing to provide flavoured tobacco for shisha smoking. This amount was believed to be only a quarter of the total shipment, which was non-duty paid.



To demonstrate that we have properly considered all relevant equalities issues, equalities impacts have been assessed at key stages of the strategy's development.

The overall impact will be positive in seeking to improve health outcomes and reduce incidences of nuisance. However, we recognise that shisha smoking is particularly prevalent within specific ethnic and faith groups, and that tackling the issues caused by this activity in a targeted way can give rise to perceptions of discrimination. We do not seek to prohibit shisha smoking, but we want to provide people with information to make informed decisions about smoking, and to ensure the activity is carried out in a responsible manner, compliant with the necessary regulations, to minimise nuisance and disruption to others. It is notable that some countries, where there has been a history of shisha use, actually do ban its use in public places.

Delivering a City for All is about balancing the needs of everyone. We want to manage some of the harmful effects shisha smoking can have – for individuals who smoke it and to the wider public – to ensure that this activity does not mean the actions of some detract from overall well-being and enjoyment of the city. By consulting widely with interested parties on the contents of this document, we have sought to ensure the intentions and benefits are effectively explained to affected groups.



See overleaf for the compiled strategy overview.



KEY OBJECTIVES	ACTIONS			
	SHORT	MEDIUM	LONG	
<p>Shisha smokers:</p> <ul style="list-style-type: none"> • Raise awareness among people who smoke shisha of the risks and health implications. • Increase understanding that smoking indoors is an offence on the part of the smoker, as well as for the premises. • Ensure shisha smokers interested in reducing/stopping smoking are able to access appropriate services and support. • Gain better understanding of the health impacts of shisha 	<ul style="list-style-type: none"> • Review smoking cessation services – availability, effectiveness, applicability to shisha • Review success of previous engagement initiatives for shisha smokers (general smoking and shisha-specific if applicable) across Tri-borough and beyond. 	<ul style="list-style-type: none"> • Awareness campaign for target groups in Westminster. • Deliver smoking cessation interventions and/or smoke free homes services, according to agreed plan. • Commission research on health impacts and usage as appropriate 		
	<p>Businesses / premises:</p> <ul style="list-style-type: none"> • Increase awareness of businesses' obligations under the law (Health Act, Environmental Health legislation, customs law etc). • Provide adequate 'warning' to premises to support and pave the way for later enforcement activity where needed. 	<ul style="list-style-type: none"> • Engage with businesses to educate them on their responsibilities and support them to comply • Develop an advice note on regulatory requirements • Review success of previous engagement initiatives for business premises (general smoking and shisha-specific if applicable) across Tri-borough and beyond. 	<ul style="list-style-type: none"> • Link in with existing local business partnerships to further reinforce messages to businesses. • Focused, ongoing liaison with non compliant businesses, monitoring improvements in compliance over time. 	
	<ul style="list-style-type: none"> • Develop a balanced, proportionate and effective enforcement approach based on the principle of ensuring the responsible provision and use of shisha which minimises the ASB, nuisance, public health and businesses compliance issues that can be associated with it. 	<ul style="list-style-type: none"> • Develop and agree a fully costed and resourced enforcement approach, based on analysis of how to combine range of powers (Licensing, Highways, Planning, Environmental Health, Trading Standards etc) to best effect including an EQIA • Develop and pilot powers under new Act • Agree way forward on key issues: Position on 7m rule for street trading licences; Fixed penalty notices or prosecutions; Approach to tobacco product labeling of shisha pipes; Targeted approach for problem premises. • Look at how we can coordinate better across the council and with partners, sharing information to understand scale of the problem and focus efforts most effectively. 	<ul style="list-style-type: none"> • Implement the agreed enforcement approach, coordinated across all relevant service areas and teams. • Implement and necessary changes to strengthen business processes to support the coordinated enforcement approach. • Develop specific local plan policy for shisha smoking, based on a robust evidence base established through this strategy. 	
<p>REGULATE THE ACTIVITY</p>				
<p>LOBBYING AND PARTNERSHIP</p> <ul style="list-style-type: none"> • Make connections with partners who have an interest / role in managing shisha smoking. • Approach relevant partners and explore opportunities for joint initiatives. • Long term, lobby for shisha to be recognised by law as a licensable activity. 	<ul style="list-style-type: none"> • Initial conversations with tri-borough, other LAs, NHS, London Councils, DCLG and others to understand synergies and opportunities to support shisha work. • Explore potential links with crime and potential benefits of joint working with police. 	<ul style="list-style-type: none"> • Lobby for greater penalties to provide credible deterrent for non compliance. • Approach HMRC to explore joint working opportunities. Lobby for dedicated resources • Lobby for shisha to obtain status as a licensable activity (possibly inclusion under 'late night refreshment' regulations) to enable more effective management of this issue through purpose built legislation. 		



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