

Item No. 7.	Classification: Open	Date: 13 March 2013	Meeting Name: Licensing Committee
Report title:		London Local Authorities Act 1991 - Standard Licensing Conditions for Premises Offering Special Treatments	
Ward(s) or groups affected:		All wards	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the licensing committee approves the revised standard conditions for licensed special treatments establishments attached as Appendix A to this report.

BACKGROUND INFORMATION

2. Special treatment premises are licensed under the London Local Authorities Act 1991. Special treatments include the following and other treatments of a like kind:
 - Massage
 - Manicure, pedicure and artificial nail treatments
 - Acupuncture
 - Tattooing
 - Cosmetic piercing
 - Chiropody
 - Light treatments including UV sun-beds and laser treatments
 - Vapour
 - Sauna.
3. Section 10 of part 2 of the Act provides the council with the power to prescribe standard licence terms, conditions and restrictions. It also provides the ability to exclude or amend a specific condition on an individual licence. This section states that:
 - The borough council may make regulations prescribing standard conditions applicable to all, or any class of, licences, that is to say terms, conditions and restrictions on or subject to which licences, or licences of that class, are in general to be granted, renewed or transferred by them.
 - Where the borough council have made regulations under this section, every licence granted, renewed or transferred by them shall be deemed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or amended.
4. Since the introduction of this legislation this council has applied a set of standard general conditions to special treatments licences and supplemented these with additional conditions specific to the individual premises operation

5. The current standard conditions for special treatment premises have been in force for a number of years in Southwark and now require updating to reflect changes in legislation and industry practices.
6. This report presents proposed revised standard licence conditions which, if adopted, will apply to all special treatment licensed premises within the borough. A copy of the revised conditions is attached at Appendix A.
7. The revised conditions are based on the recommended standard conditions for special treatment premises by the London Special Treatment Working Group, of which Southwark Council is a participating member, and are considered as best practice.

KEY ISSUES FOR CONSIDERATION

Growth in the industry

8. Over recent years we have seen considerable increase in both the types of treatment being offered and the numbers of premises offering treatments. It has also seen changes in those bodies required to regulate these treatments, placing more responsibility on local authorities.
9. Examples of changes to the types of treatments on offer over this period include high risk areas such as laser treatments. Non-surgical lasers/intense pulse light systems used for hair removal was previously regulated by the Care Quality Commission but now is the responsibility of the licensing authority.
10. London has become a diverse multi-racial city with new cultures and practices arriving with the new inhabitants. Southwark itself has also changed in recent years, with Peckham in particular becoming one of the main centres for low cost nail treatments attracting clients from most parts of London.
11. Tattoos are now a common fashion accessory for a diverse London population and, with the introduction of cheap tattooing equipment available directly from the internet, more tattoo outlets are springing up across the borough to meet this demand.
12. Staff at special treatment premises are also changing with an increase of immigrant technicians who bring new techniques and challenge the traditional ways of providing special treatments in London.
13. In 2005 Southwark licensed 84 special treatment premises. By 2012 the number of special treatment premises has nearly doubled to 157. The majority of the growth has occurred in Peckham, Camberwell and Walworth.
14. The London special treatment working group lists 140 separate special treatments of which 82 are controlled by the licensing authority. This list increases every year. A list of these special treatments is provided in Appendix B for reference.

Ensuring health and safety

15. Concerns have arisen over the conduct of some premises and complaints have been received in relation to treatments that in some cases are alleged to have

not been administered properly. Such matters may have a serious impact on public health and wellbeing and appropriate measures need to be in place to ensure the proper conduct of licensed premises. This will avoid the potential for extremely dangerous practices that in some cases could give rise to infection or injury because the practices can involve contact with human bodily fluids. Amongst the more serious conditions that the public need protecting against are hepatitis and HIV.

16. Although there are some treatments are not permitted for people under the age of 18, or 16 in the case of saunas, many other treatments have no age restrictions. Complaints have been received that under 18 year old children have received treatments without parental consent and concerns have been raised that treatments restricted to adults only can be accessed by children if age controls at each premises is insufficient. The proposed conditions provided for parental consent for children for unrestricted treatments and challenge 25 scheme to ensure ages are checked.
17. There is a need to proactively control and promote the safety of the premises in which these treatments are carried out and protect the health and safety of both staff and clients who are performing or receiving treatments.
18. The revised conditions incorporate basic management controls as standard, however the control over how specific treatments are conducted and monitored is provided by joint working with the council's health and safety team. Health and safety inspections are much more complex and become subject to change as new techniques and practices are found to form part of licensing standards.
19. To support this we provide best practice guidance for each generic type of treatment which is regularly updated as best practice changes. These are sourced from the department of health and medical bodies, the chartered institute of environmental health and the health and safety executive as well as industry specific codes of practice such as the hair and beauty industry authority. Clients are directed towards these sources.
20. Conditions relating to the best practise guides for individual treatments do not form part of the standard conditions for special treatment premises, but will be put on individual licences depending on the treatments being provided. An additional list of some of the more commonly used conditions is provided for information in Appendix C for information. However, members are not asked to approve these conditions within the standard conditions.

The revised conditions

21. The conditions are to address general health and safety and underage concerns for all premises.
22. The main changes in the revised conditions are:
 - The inclusion of basic conditions on the provision of certain treatment areas
 - The introduction of trading standards approved conditions on age verification for treatments restricted to adults or requiring parental consent for children
 - The imposition of minimum standards of qualifications and experience of technicians for various treatment types.

23. These revised conditions are recommended as the basic minimum standards for management of special treatments establishments. As has been mentioned, these conditions can be adjusted or new conditions added to reflect local priorities and situations that may not be London-wide. These conditions will be supplemented by best practice guidance relevant to the treatment types for the authorisation sought at the time of application.
24. Conditions relating to underage treatments have been drafted in consultation with Southwark trading standards and also reflect industry best standards.
25. Health and safety concerns for individual premises and specific treatments will be imposed as supplementary conditions. These additional conditions, as examples in Appendix C, will not be placed on every licence.

Consultation

26. There is no requirement for consultation for standard conditions under the London Local Authorities Act 1991.
27. The council's health and safety team and trading standards team have been consulted with and contributed to the drafting of the proposed standard licensing conditions for premises offering special treatment.

Policy implications

28. These standard licence conditions are intended to help ensure the health, safety and wellbeing of the staff working in licensed special treatments establishments and the customers who use them. They provide the minimum standards considered necessary to ensure that special treatments are provided in safe and hygienic manner.

Community impact statement

29. Through the licensing process it is intended to encourage a wide and diverse range of special treatments, in which customers may have confidence that they are provided to good standards. This will be supported through advice and support for responsible operators and effective enforcement action against irresponsible operators.
30. The standard conditions also promote minimum qualification levels for operatives. This approach not only ensures that treatments provided are safe and hygienic but that operatives are suitably trained and have acquired a skills base for their future careers.
31. The new regulations, if passed, will be advertised by notice in a local newspaper and on the council's web-site. The regulations will not come into force until three months have elapsed from the date of the notice.
32. Current licence holders will be written to and informed of the changes in writing at the beginning of the three month period.

Resource implications

33. There are no new resource implications introduced by this report. The special

treatments applications processes and compliance regime plus the monitoring of treatments may be covered by the existing resources of the licensing and health and safety teams.

34. A fees structure for special treatment licence applications are currently set and were raised for this year in line with inflation levels.
35. A full review of the fees structure will be undertaken for the year 2014/15 to ensure that the fees cover all costs associated with the processing of licenses and inspection of licensed premises and to ensure that the fees continue to be in full compliance with in line with the European Services Directive.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

36. Special treatment premises are licensed under the London Local Authorities Act 1991 ('the Act').
37. Under Part 2, Section 4 of the Act, special treatments are defined as premises intended to be used, or represented as being used for the reception or treatment of persons requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other special treatment of a like kind or vapour, sauna or other baths.
38. Section 6 of the Act provides that no premises shall be used in the borough as an establishment for special treatment except under and in accordance with a special treatment licence granted under this section by the borough council.
39. The revised standard conditions are attached at Appendix A.
40. The revised standard conditions can be supplemented with additional conditions specific to the individual premises operation.
41. The Act sets out the conditions that may be specified when granting a licence. These can be found under Part 2 Section 6 and include maintenance of public order and safety, the number of persons who may be allowed to be on the premises at any time, qualifications of the persons giving the special treatment and the maintenance of safe condition of means of heating the premises.
42. The Act goes onto set out grounds for refusal of an application for a special treatment licence which can be found under Section 8. These include where the premises are not structurally suitable for the purpose, the premises have been or are being improperly conducted and the means of heating the premises are not safe.
43. In accordance with Part 2, Section 10 (1) of the Act, the borough council may make regulations prescribing standard conditions applicable to all, or any class of, licenses, that is to say terms, conditions and restrictions on or subject to which licences, or licences of that class, are in general to be granted, renewed or transferred by them.
44. Under Section 10 (2) where the borough council have made regulations under this section every licence granted, renewed or transferred by them shall be

deemed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or amended.

45. In the event that the committee resolve to approve the revised standard conditions, in accordance with Part 1, Section 3 (1) of the Act, the council must fix a day as being the appointed day on which the standard conditions will come into effect.
46. Under Section 3 (3) the council must publish in a local newspaper notice of the passing of any such resolution and the general effect of such resolution coming into operation and the day fixed thereby.
47. The appointed day shall not be earlier than the expiration of three months from the publication of such notice.

Equality Act 2010

48. The council must have due regard to its public sector equality duty (PSED) under the Equality Act 2010, in particular the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity for those with protected characteristics and foster good relations between those with and without such characteristics. The list of protected characteristics is set out in the 2010 Act.
49. Under Part 3 of the council’s constitution, decisions on the council’s licensing policies and registration are reserved to licensing committee.

Strategic Director of Finance and Corporate Services

50. This report recommends approval of revised standard conditions for licensed special treatments establishments. The strategic director of finance and corporate services notes that existing resources are in place within the licensing and health and safety teams to monitor these new standards.
51. The strategic director of finance and corporate services notes the council’s continued commitment to not charge fees above the cost of administering this process.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
The London Local Authorities Act 1991	The Licensing Service, 3 rd Floor, Hub 2 160 Tooley Street	Name: Mrs Kirtikula Read Phone number: 020 7525 5748

APPENDICES

No.	Title
Appendix A	Standard licensing conditions in force for premises offering special treatment by London Borough of Southwark
Appendix B	A-Z of treatments/therapies as at 27 November 2012
Appendix C	Additional conditions which apply to specific treatments

AUDIT TRAIL

Lead Officer	Strategic Director of Environment and Leisure	
Report Author	David Franklin, Team Leader Licensing	
Version	Final	
Dated	28 February 2013	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team	28 February 2013	