

REPORT TO:	LICENSING COMMITTEE 20 MARCH 2019
AGENDA ITEM:	
SUBJECT:	London Local Authorities Act 1991 Revision to Standard Licensing Conditions for Premises offering Special Treatments
LEAD OFFICER:	Executive Director, Place Department
CABINET MEMBER:	Cllr. Hamida Ali, Cabinet Member for Safer Croydon & Communities
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT:	
This report is specific to this application and has no implications on the Council's Corporate Policies	
FINANCIAL SUMMARY:	
There are no direct financial implications associated with this report. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A	

For general release

1. RECOMMENDATIONS

The Committee are recommended to:

- 1.1 Note that the Leader has delegated authority to the Director of Public Realm, to adopt revised/updated 'Standard Conditions for Places offering Special Treatments' under the London Local Authorities Act 1991.
- 1.2 Recommend to the Director of Public Realm, that he adopt the revised/updated 'Standard Conditions for Places offering Special Treatments' attached at Appendix One to this report.

2. EXECUTIVE SUMMARY

- 2.1 The purpose of this report is to seek the Committee's views in relation to the adoption of revised 'Standard Conditions for Places offering Special

Treatments'. The Standard Conditions were originally produced in 2004 and was last revised in 2011.

3. DETAIL

- 3.1 Section 10 of the London Local Authorities Act 1991(The 1991 Act)` provides a legislative framework for the local authority to make 'licence conditions' to control the standard terms, conditions and restrictions which apply to premises offering 'special treatments' in the Borough.
- 3.2 The current 'licence conditions' were approved on 20 January 2011 and are applied to all special treatment licences granted by the Council.
- 3.3 Under Part II of the Act, 'establishment for special treatment' means any premises in the borough used, 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 but does not include —
- (a) any premises which are not used for gain or reward;
 - (b) any premises where the special treatment is carried out by or under the supervision of —
 - (i) a medical practitioner duly registered by the General Medical Council; or
 - (ii) any bona fide member of a body of health practitioners which has given notice in writing to the borough council that it—
 - (A) has a register of members;
 - (B) requires as qualification for membership qualifications by way of training for, and experience of, the therapy concerned;
 - (C) requires its members to hold professional indemnity insurance;
 - (D) subjects its members to a code of conduct and ethics, including a prohibition of immoral conduct in the course of their practice; and
 - (E) provides procedures for disciplinary proceedings in respect of its members; and has supported that notice with satisfactory documentary evidence, if required by the council; or
 - (iii) in the case of acupuncture, a dentist registered under the [1984 c. 24.] Dentists Act 1984.
- 3.4 There are a range of treatments offered under the definition of "special treatments", many of which have emerged since the Act was written and therefore the Act does not list them all. A Working Group of professional officers from the London boroughs has been in place for a number of years and this group assesses all treatments and decides, collectively as to whether a specific treatment should be defined as a special treatment and therefore requires licensing. As a result of updated guidance from the London Special Treatment Group, it is felt appropriate to revise & update the existing Standard Conditions for Places offering Special Treatments, which are applied consistently across London by the majority of other boroughs. A copy of the existing conditions with the proposed amendments highlighted in bold and italics are attached to this report as Appendix One.
- 3.5 The focus of the revisions to the Conditions is to –

- provide more detail and greater clarity on the qualifications required by operatives to provide the different treatments
- make licence holders/applicants aware that licence holders and their treatment(s) providers will be issued with identification badges along with their licence and will be required to wear them whilst working at the licensed premises. This is to provide assurance to customers that the person delivering the treatment is the person who is authorised to do so.
- provide more detail and clarity on the exemption provision in the Act
- greater clarity on the certification to be available at licensed premises and this relates to both operatives training and to the structure/fabric of the premises itself.

3.6 All the suggested amendments are considered 'best practice' standards by the London Local Authorities who attend the London Special Treatments Group.

3.7 To assist Members, a list of current licensable special treatments is attached at Appendix Two.

3.8 The Council is aware of the aims and requirements of the Modern Slavery Act 2015 with regard to human trafficking, slavery, servitude and forced or compulsory labour and in its compliance & enforcement duties in relation to licensed premises. The Council will seek to ensure that officers are suitably trained to spot any indicators of such activity.

4. CONSULTATION

4.1 There is no requirement on the Council within the Act to consult on amendments/revisions to standard conditions attached to special treatments licenses. That said, the Licensing Team wrote to all current licence holders on 28 January 2019 concerning the renewal process for 2019 and in that letter, included a Council website link that would take the reader to a list of current minimum qualifications for providing specific treatments which will apply to any new licenses or renewals in future. To assist the committee, a copy of that letter and a list of the current acceptable qualifications is attached at Appendix Three.

5. FINANCIAL CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

2 The Effect of the Decision

There are no direct financial implications associated with this report.

3 Risks

There are no direct risks associated with the recommendations in this report.

4 Options

There are no other options available to the Council.

5 Savings/Future Efficiencies

None identified.

(Approved by: Flora Osiyemi, Head of Finance Place, Residents & Gateway)

6. COMMENTS OF THE SOLICITOR AND MONITORING OFFICER

- 6.1** The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that the Council is authorised to make regulations under Section 10 (1) of the London Local Authorities Act 1991, prescribing standard conditions applicable to all Special Treatment premises located in the London Borough of Croydon.

(Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance and Deputy Monitoring Officer)

7. HUMAN RESOURCES IMPACT

- 7.1** There are no perceived human resources implications associated with this report.

8. CUSTOMER IMPACT

- 8.1** The London Local Authorities Act 1991 impacts on existing and potential licence holders. Well managed licensed premises attract customers and contribute to a vibrant local economy.

11. EQUALITY ANALYSIS (EA)

- 11.1** This report does not require a separate Equality Analysis to be undertaken.

12. ENVIRONMENTAL AND DESIGN IMPACT

- 12.1** Fee setting in respect of premises in Croydon licensed for special treatments are not considered to adversely impact on the local environment.

13. CRIME AND DISORDER REDUCTION IMPACT

- 13.1** There are not considered to be any local crime and disorder implications associated with this report.

14. HUMAN RIGHTS IMPACT

- 14.1** Article 1 of the First Protocol provides a right to peaceful enjoyment of possessions. Both a person's business and an existing licence are a possession and cannot be taken away or interfered with unless the law allows it and the action is justified.

Further, when determining applications under the London Local Authorities Act 1991, it is necessary to ensure that, as far as possible, the Council's procedures are compliant with the principles in Article 6 of the Convention – the right to a fair trial.

15. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

15.1 Information that is provided to or held by the Council in relation to applications must only be processed and disclosed strictly in accordance with the Freedom of Information Act 2000 and Data Protection Act 2018 and other appropriate legislation including the provisions of the General Data Protection Regulations.

CONTACT OFFICER: Michael Goddard, Licensing Manager, Place
Department, ext. 61838

BACKGROUND DOCUMENTS: