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# Merton Council

## Licensing Committee

### Membership

Nick Draper (Chair)

David Simpson CBE (Vice-Chair)

Stan Anderson

Pauline Cowper

Nigel Benbow

Paul Kohler

Mary Curtin

Oonagh Moulton

Janice Howard

Stephen Alambritis MBE

John Dehaney

Russell Makin

A meeting of the Licensing Committee will be held on:

**Date: 28 January 2021**

**Time: 7.15 pm**

**Venue: This will be a virtual meeting and therefore will not take place in a physical location, in accordance with s78 of the Coronavirus Act 2020.**

**This will be followed by a meeting of the Licensing Committee (miscellaneous) to deal with any licensing matters which are not within the scope of the Licensing Act 2003.**

This is a public meeting and can be viewed by following this link  
<https://www.youtube.com/user/MertonCouncil>.

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# Licensing Committee

## 28 January 2021

- |   |  |        |
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| 1 | Apologies for absence  |        |
| 2 | Declarations of Pecuniary Interest                                       |        |
| 3 | Minutes of the previous meeting  | 1 - 4  |
| 4 | London Local Authorities Act 1991, Review of Special Treatment Licensing | 5 - 36 |

Licensing Committee (Miscellaneous matters)

### **Note on declarations of interest**

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

# Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at [www.merton.gov.uk/committee](http://www.merton.gov.uk/committee).

## LICENSING COMMITTEE

15 OCTOBER 2020

(7.15 pm - 8.03 pm)

PRESENT Councillors Councillor Nick Draper (in the Chair),  
Councillor David Simpson, Councillor Agatha Mary Akyigyina,  
Councillor Stan Anderson, Councillor Pauline Cowper,  
Councillor Nigel Benbow, Councillor Paul Kohler,  
Councillor Mary Curtin, Councillor Joan Henry,  
Councillor Oonagh Moulton, Councillor Marsie Skeete and  
Councillor Janice Howard

ALSO PRESENT Councillor Thomas Barlow

Caroline Sharkey (Licensing Manager), Guy Bishop (Senior  
Lawyer – Licensing and Litigation), Amy Dumitrescu (Democratic  
Services Officer) and Olamide Williams (Senior Electoral  
Services Officer)

### 1 APOLOGIES FOR ABSENCE (Agenda Item 1)

There were no apologies for absence.

### 2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of pecuniary interest.

### 3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED: That the minutes of the meeting of 9 June 2020 were agreed as a correct record.

### 4 REPORT ON THE FIVE YEARLY REVIEW OF THE COUNCIL'S STATEMENT OF LICENSING POLICY AS REQUIRED UNDER SECTION 5 OF THE LICENSING ACT 2003 FOLLOWING CONSULTATION (Agenda Item 4)

Councillor Barlow spoke at the start of the meeting on behalf of Wimbledon Village residents noting 137 opposed the proposed change in so far as the Licensing Authority proposed that the Cumulative Impact Assessment would not include Wimbledon Village. Councillor Barlow stated that there was already a large density of licensed premises within the Village and residents were concerned that with the current economic situation other unused shops might be replaced with further licensed premises. Late night drinking on the common, littering and a recent section 135 notice were also concerns that had been raised.

The Licensing Manager presented the report which provided the details of the responses to the public consultation on the draft policy.

On the 9<sup>th</sup> June 2020, the Licensing Committee had agreed the draft policy for consultation and reviewed the data sets for the Cumulative Impact Assessment. The Licensing Committee had agreed on that date that the CIA consultation should consider evidence for Wimbledon Town Centre and Mitcham and was concerned that there was insufficient evidence to retain the special policy for Wimbledon Village. Ward members, licence holders, local businesses and responsible authorities amongst others had been consulted with and details of the consultation had also been published on social media and on the Council's website.

The Licencing Manager provided a summary of the online responses, noting these had been generally positive about the Licensing Policy and proposed amendments, with the most comments relating to the proposed removal of the Wimbledon Village from the proposed CIA. It was noted that the policy was supported by the Director of Public Health and the Police Licensing Officer.

The Council is required to review the CIA every 3 years (under section 141 of the Policing and Crime Act 2017). Whilst there is no longer a rebuttable presumption that applications within a Cumulative Impact Zone would be refused, applicants have to have regard to any Cumulative Impact Policy and when determining any application The Licensing Sub-Committee should give weight to the evidence brought before them by objectors. Each application must still be considered on its' own merit, notwithstanding the existence of a CIA, taking account of the particular circumstances.

The Licensing Manager highlighted the results of the online consultation: In relation to Wimbledon Town centre, 100 people had responded and 89% agreed strongly that there should be a special policy on cumulative impact. For Mitcham Town Centre of 95 responses, 76.7% were in favour of a special policy and this was also supported by the Police Licensing Officer. For Wimbledon Village, 88 people had responded online. 12.5% of these strongly agreed there was insufficient evidence to retain the current special policy and 87.5% disagreed. 65 direct responses objecting to the removal of the Wimbledon Village CIZ had also been received, with 5 in support.

Members queried whether the removal of Wimbledon Village CIP could be reviewed in 18 months' time. The Licensing Manager advised that there was no evidence for retaining the policy at the moment, but the same data analysis could be reviewed in 18 months' time and if there was evidence to inform the Licensing Committee that there was a need to amend the CIA, there would be the opportunity to do so. Members agreed that this approach should be taken and that Morden Town Centre and potentially any other areas should also be assessed at the same time.

In response to further questions the Legal Advisor provided advice that the legislation was clear that the Licensing Authority were required to have evidence on which to base a CIA.

The Committee agreed to review the Cumulative Impact Assessment for Wimbledon Village in 18 months' time (February or June 2022 meeting) as well as some data on

Morden and to allow the Licensing Manager to consider any other locations which might also merit discussion.

RESOLVED:

A. That the Licensing Committee considered the comments received during the public consultation process, which took place between 15 June and 7 September 2020;

B. The Licensing Committee discussed, debated, recommended and approved the proposed Cumulative Impact Assessment having regard to the responses to the public consultation;

C. The Licensing Committee approved delegated authority to the Licensing Manager, in consultation with the Chairman of the Licensing Committee, to approve any amendments to the Statement of Licensing Policy and/or Cumulative Impact Assessment following the Committee meeting and prior to submission to Council for adoption on 18 November 2020; and

D. The Licensing Committee approved the draft Statement of Licensing Policy and Cumulative Impact Assessment subject to the above paragraph and recommended them for adoption by full Council on 18 November 2020.

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**Committee:** Licensing Committee

**Date:** 28 January 2021

**Agenda item:**

**Wards:** All

**Subject:** London Local Authorities Act 1991, Review of Special Treatment Licensing

**Lead officer:** Chris Lee, Director of Environment and Regeneration.

**Lead member:** Councillor Nick Draper, Chair of Licensing Committee.

**Forward Plan reference number:** N/A

**Contact Officer:** Caroline Sharkey, Licensing Manager, London Boroughs of Merton, Richmond Upon Thames and Wandsworth Joint Regulatory Services Partnership and Guy Bishop Senior Lawyer SLLP

## **Recommendations:**

- A. The Licensing Committee to adopt the standard conditions for Special Treatment Premises Licences as set out in Appendix B to this report to take effect from the 1<sup>st</sup> April 2021, or the date of first renewal thereafter.
- B. The Licensing Committee to approve the proposed fee structure to take effect from the 1<sup>st</sup> April 2021 and to recommend fee levels for approval by the Director of Environment and Regeneration in February 2021 as set out in Appendix A to this report.
- C. The Licensing Committee to confirm the adoption of the regulations governing applications for grant, renewal, transfer and variation of special treatment licences and their determination as set out in Appendix C to this report to take effect on the 1<sup>st</sup> April 2021.
- D. The Licensing Committee to confirm approval that broad categories of treatments will be licenced to take effect on the 1<sup>st</sup> April 2021, or the date of first renewal thereafter.

## **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 Premises where special treatments establishments are provided must be licensed under the London Local Authorities Act 1991 as amended by the London Local Authorities Act 2000 ('The Act).
- 1.2 The Act allows the Council to make regulations prescribing the terms, conditions and restrictions on or subject to which licences, or licences of a particular class, are to be granted, renewed or transferred. Where such regulations have been made all licences granted are subject to those standard conditions unless they have been expressly excluded or amended.
- 1.3 With the implementation of the Merton, Richmond and Wandsworth Regulatory Services Partnership a review of the Special Treatment licensing processes across the Boroughs was undertaken with the intention that a single system of

licensing be implemented across the three Boroughs. At its meeting on the 9<sup>th</sup> June 2020, the Licensing Committee agreed, subject to consultation with existing licence holders:

- i) the adoption of new standard conditions;
- ii) the adoption of regulations governing applications for grant, renewal, transfer and variation of special treatment licences and their determination; and
- iii) to amend the licence to specify the category of treatment that can be carried out at the premises rather than to specify every particular treatment.

- 1.4 The Licensing Committee also noted a proposed revision to the fee structure based on risk to more accurately reflect the actual cost. Before making a final decision, the Licensing Committee sought more details as to the effect such a revision would have on individual premises in the borough.
- 1.5 All existing licence holders were notified of the proposed changes in late August/early September with the closing date for receipt of comments being the 18<sup>th</sup> October 2020.
- 1.6 No negative responses were received to the proposals from Merton Special Treatment licence holders. Three responses were received from Richmond licence holders which have been considered. Small modifications are proposed to the draft licence conditions, shown as tracked changes to the conditions attached at Appendix B to this report.
- 1.7 This report seeks:-
- (i) the adoption of standard conditions as laid out in Appendix B to this report.
  - (ii) confirmation of the decisions made by the Committee on the 9<sup>th</sup> June 2020 with regard to the regulations governing applications set out at Appendix C to this report, and the licensing of broad categories of treatments
  - (iii) approval of the proposed fee structure for Special Treatment Establishments with a recommendation of fee level to go to the Director of Environment and Regeneration for approval in February 2021 as set out in Appendix A to this report.

## **2. DETAILS.**

### **2.1 Background**

- 2.2 Part II of the London Local Authorities Act 1991 requires that persons providing premises where special treatments are offered must hold a licence. A Special Treatment Establishment is defined in the Act as a premises that is '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'. The Act does provide for a number of exemptions (e.g. medical practitioners, dentists and bona fide members of a body of health practitioners). Since the introduction of the Act many new types of treatments have come onto



the market and a judgment must always be made as to whether they fall within the definition of a special treatment.

2.3 The Act provides a mechanism for the Council to prescribe the terms, conditions and restrictions it deems appropriate with regard to the licensing process. This includes the setting of fees at a level to fully recover its costs in administering and enforcing the licensing regime and the adoption of standard conditions to which all licensed premises must adhere unless specifically exempted. The Act lays out a number of areas that such conditions should relate (although these are not to be taken as exclusive) and includes: -

- the maintenance of public order and safety;
- the number of persons who may be allowed to be on the premises at any time;
- the qualifications of the persons giving the special treatment;
- the taking of proper precautions against fire, and the maintenance in proper order of means of escape in case of fire, means for fighting fire and means of lighting, sanitation and ventilation of the premises;
- the maintenance in safe condition of means of heating the premises;
- the hours of opening and closing the establishment for special treatment;
- the safety of any equipment used in connection with the special treatment and the way in which the treatment is given;
- the cleanliness and hygiene of the premises and equipment;
- the manner in which the establishment is operated and the way it is advertised.

#### **2.4 Consultation with existing licence holders**

2.5 At its meeting on the 9<sup>th</sup> June 2020, the Licensing Committee agreed, subject to consultation with existing licence holders:

- i) the adoption of new standard conditions;
- ii) the adoption of regulations governing applications for grant, renewal, transfer and variation of special treatment licences and their determination; and
- iii) to amend the licence to specify the category of treatment that can be carried out at the premises rather than to specify every particular treatment.

2.6 The Licensing Committee also noted a proposed revision to the fee structure based on risk.

2.7 All existing licence holders were notified either by email or by letter of the proposed changes in late August/early September 2020. They were advised to submit any comments by the 18<sup>th</sup> October 2020. The consultation was carried out when businesses were open and trading again after the protracted closure due to the COVID pandemic. No comments were received from Merton licence holders to the proposals.

2.8 However, a similar consultation in the London Borough of Richmond resulted in the receipt of three comments. Two of the respondents largely supported the proposed amendments, although one had concerns about some individual conditions. The third respondent did not believe that body piercing establishments should be within the highest risk band, and consequently the highest fee band, particularly in view of the proposal that ear lobe and nostril piercing are judged to be low risk.

2.9 In response to the consultation minor amendments are proposed to the standard conditions as laid out in Appendix B.

2.10 The comments relating to piercing establishments were noted. However, these are high risk establishments and require more in-depth inspections to gauge competence and safe working practices compared with other special treatment establishments. As a type of premises tattooists and piercers attract a higher level of complaint than other special treatment establishments, although this does detract from the fact that many such premises are extremely well run. Currently, in Merton, tattooists and piercers attract an additional fee.

2.11 It is, therefore proposed that the Licensing Committee:

- (a) adopt the standard conditions for Special Treatment Premises Licences amended as set out in Appendix B to this report to take effect from the 1<sup>st</sup> April 2021, or the date of first renewal thereafter.
- (b) confirm the adoption of the regulations governing applications for grant, renewal, transfer and variation of special treatment licences and their determination without amendment as set out in Appendix C to this report to take effect on the 1<sup>st</sup> April 2021.
- (c) confirm the approval that broad categories of treatments will be licenced to take effect on the 1<sup>st</sup> April 2021, or the date of first renewal thereafter.

## 2.12 **EU Services Directive and Hemmings and others v Westminster City Council**

The EU Services Directive, brought into British law by the Provision of Services Regulations 2009, came into effect on 28th December 2009 and requires EU Member States to put in place a system to allow service providers located in the EU to apply for, vary and pay for licences and permits on-line. Amongst other matters, the Services Directive has been introduced to ensure that any licence application, authorisation or administrative procedure that must be followed in order to establish a business in a relevant service sector is transparent with any burden on the business kept to a minimum. This basic concept also applies to the fees charged by local councils for approving licence applications, authorisations or other administrative processes.

2.13 In setting and charging fees local authorities must ensure that they are non-discriminatory, justified, proportionate, clear, objective, made public in advance, transparent and accessible. Councils must not use fees covered by the Directive

to make a profit or act as an economic deterrent to deter certain business types from operating within an area.

- 2.14 In a landmark case for the setting of licence fees the Supreme Court delivered judgment in *R (on the application of Hemmings (t/a Simply Pleasure Ltd) and others) v Westminster City Council*. The case concerned the situation of an applicant who applied for the grant or renewal of a sex establishment licence for any year and who had to pay a fee made up of two parts. One part related to the administration of the application and was non-refundable and the other part (which was considerably larger) concerned the management and enforcement of the licensing scheme and was refundable if the application was refused.
- 2.15 The central issue for the court was whether it was legitimate under domestic and/or European Union Law for Westminster City Council to charge the fee for the management and enforcement of the licensing scheme. One of the arguments run by the Respondent (Hemmings) was that following the introduction of the Provision of Services Regulations 2009 Westminster City Council were no longer entitled to include within their fee the cost of managing and enforcing the licensing scheme.
- 2.16 The Supreme Court disagreed. Paragraph 17 of the judgment reads, “Nothing in article 13(2) (of the European Service Directive) precludes a licensing Authority from charging a fee for the possession or retention of a licence and making this licence conditional upon payment of such a fee”. The judgment went on to say that any such fee would need to be proportionate but that there was no reason why it should not be set at a level enabling the authorities to recover from licenced operators the full costs of managing and enforcing the licensing scheme including the costs of investigating and prosecuting those operating sex establishments without licences.
- 2.17 Whilst allowing Westminster's appeal to the extent explained above, the Supreme Court remained uncertain on one discrete aspect of the case. This concerned the Council's chosen method of exercising its right to recover the costs of enforcement from licensed sex shop operators. Westminster charged all applicants for sex establishment licences a fee that included both a sum to cover the cost of administering the application and a sum representing a contribution towards Westminster's costs of enforcement. The latter sum was refunded to unsuccessful applicants, whilst the former sum was not. It was the view of the Supreme Court that this aspect of the case should be referred to the European Court of Justice (ECJ) for decision.
- 2.18 In its final judgement, endorsed by the Supreme Court, the ECJ stated that Article 13(2) of the Services Directive must be interpreted as precluding a requirement for the payment of a fee at the time of submitting an application for the grant or renewal of an authorisation which includes a cost relating to the management and enforcement of the authorisation scheme concerned, even if that part is refundable if that application is refused. Consequently, the costs for any activities which postdate authorisation (such as management and enforcement) cannot be levied at the time of application.

2.19 Although the court case related to the licensing of sex shops, the judgement impacts on all licence fees set by Local Authorities. Consequently, Local Authorities are required to split the fees for licences within their control between the cost of administering the licence (the application fee) and the cost of on-going management and enforcement to be paid following successful application. Businesses may continue to choose to pay both fees 'up front' and in such cases the management and enforcement element of the fee would need to be refunded if the application was unsuccessful.

## **2.20 Fee Structure**

2.21. At its meeting on the 9<sup>th</sup> June 2020, the Licensing Committee noted the proposal that the fee structure should be changed from the current system based on the number of people who can be treated on the premises at any one time i.e. on the size of the premises, with an additional fee if skin piercing, light treatments: including UV (sunbeds), lasers, light therapy and electric treatments are provided and a higher additional fee if tattooing and/or body piercing is provided to one based on risk which will more accurately reflect the administration and enforcement work associated with the licensing regime.

2.22 Under the proposed new fee structure, premises will be split into three bands based on the risk of the treatments being offered and the time taken to inspect and carry out enforcement work.

2.23 Premises falling within the high risk band will be those offering body piercing (including piercing of body/face, beading, micro-dermal anchor);tattooing (including micro blading, micropigmentation, tattooing); laser treatments (including intense pulsed light, laser, tattoo removal).

2..24 Premises in the medium risk category include those offering skin piercing (acupuncture, dry needling, electrolysis – wart/skin tag removal, red vein treatment); massage treatments (including acupressure, aromatherapy, body massage, facial massage, reflexology); electric and light treatments (including infra red treatments, ultra violet tanning (sunbeds) electrolysis – hair removal, faradism, galvanism, lipolaser, micro current therapy, high frequency, therma vein, ultrasound); nail treatments (manicure, pedicure, acrylic nail extensions); bath/vapour (sauna, spa pool, steam room/bath, hydrotherapy, floatation tank).

2..25 Low risk premises will be those offering ear piercing (lobe only) and nose piercing (nostril only).

2.26 When calculating the fee for administering the application the following costs are included:

- a) Basic office administration to process the licence application, such as resources, IT data entry, liaising with licensing officers, production of the licence.
- b) The average cost of officer time where a premises visit is required as part of the authorisation process.
- c) Liaison with interested parties such as the police and the fire brigade.

- d) Management costs for reviewing and authorising the issue of a licence.
  - e) Expenditure in arranging hearings to consider applications.
  - f) On costs including IT development, travel expenses, legal and office re-charges, general office expenses such as postage and stationery.
  - g) Web materials.
  - h) Advice and guidance.
- 2..27 When calculating the ongoing enforcement element the following is included:
- a) The cost of risk based visits to premises in between licensing inspections and responding to complaints. The figures are based on average officer time, travel and on costs.
  - b) Expenditure associated with arranging committee meetings to respond to problems.
  - c) Registers and national reporting.
  - d) The cost of enforcing against unlicensed businesses excluding any court costs as may be recovered through the courts.
  - e) Costs associated with fee setting and general oversight of the service.
- 2.28 Currently there are 65 licensed Special Treatment Establishments in Merton. Of these 18 will fall within the 'high risk' band and 45 within the 'medium risk' band and two in the low risk band.
- 2..27 The fees for Special Treatment Establishments are set annually by the Director of Environment and Regeneration in February. In order to assist the Committee in its decision regarding the proposed changes to the fee structure, Appendix A sets out the current fees for Special Treatment Establishments and the recommended fees for 2021-2022 to be presented to the Director for approval.
- 2.28 Currently there are 65 licensed Special Treatment Establishments in Merton. Of these 18 will fall within the 'high risk' band and 45 within the 'medium risk' band and two in the low risk band.
- 2.29 Based on the proposed fees for 2021-2022, of the existing 65 licensed premises in the borough and based on currently licensed treatments 14 will see a reduction in fees ranging from £504 (55.38%) to £13 (5.36%). The remainder will see an increase in fees ranging from £53 (11.37%) to £166 (47.03%).
- 2.30 The highest percentage increase falls to the smaller premises carrying out the highest risk activities such as tattooing/body piercing, laser treatments, and microblading/semipermanent makeup. Some establishments can make a commercial decision whether or not to continue providing the high risk treatments that place them in the highest risk band. However, this will not always be the case e.g. for tattoo establishments.
- 2.31 It is acknowledged that the proposed increase in fees for some establishments in the borough is significantly above the rate of inflation, but the fees do now reflect the accurate cost of the licensing process

### **3. Timetable**

If approved, the changes will come into effect on the 1<sup>st</sup> April 2021, or first renewal date thereafter for existing licensees.

### **4. Financial, resource and property implications**

- 4.1 One of the purposes of this report is to seek approval to amend the fee structure.
- 4.2 The method of fee setting will be on a cost recovery basis following government guidance on licensing fee setting, taking into account both the processing of the application and enforcement of the regime.

### **5. Legal and statutory implications**

- 5.1 The Council's powers and duties under Part II of the London Local Authorities Act 1991 and the Hemming case are set out in the body of this report. There are no further legal implications arising directly from this report.

### **6. Human rights, equalities and community cohesion implications.**

- 6.1 These are statutory functions and are applied globally.

### **7. Crime and Disorder Implications.**

- 7.1 None for the purposes of this report

### **8. Risk management and health and safety implications.**

- 8.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.

### **9. Appendices – the following documents are to be published with this report and form part of the report.**

Appendix 'A' – Existing and proposed fees

Appendix 'B' – Proposed standard conditions

Appendix C- Proposed regulations governing applications for the grant, renewal, transfer and variation of special treatment licences and their determination

**10. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**

10.1 Existing licence conditions, Merton, Richmond and Wandsworth

10.2 Existing fee structure, Merton, Richmond and Wandsworth

10.3 Consultation response from existing licensees, London Borough of Richmond

10.4 Existing Rules Governing applications, London Borough of Merton.

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1. Current Fees - Applications

For new applications and renewals:

Type of Premises	Fee
<b>Premises Charge:</b> Smaller premises licensed to treat up to 3 persons at the same time	£323
<b>Premises Charge:</b> Larger premises licensed to treat between 4 and 10 persons at the same time	£400
Premises treating 11 or more persons at the same time	£400 plus £51 per extra person
<p><b>Category One Treatment</b>            Skin Piercing: including cosmetic piercing, acupuncture, thread vein treatment, moxibustion (with skin piercing).            Light Treatments: including UV (sunbeds) lasers, light therapy.            Electric Treatments: including faradism, ultra high frequency, galvanism, electrolysis and electro-acupuncture.</p>	<p>£30 <i>additional fee</i>            (for all or any treatment in this category)</p>
<p><b>Category Two Treatment</b>            Tattooing and body piercing.</p>	<p>£66 <i>additional fee</i>            (for all or any treatment in this category)</p>

**Calculation**

Premises Charge plus

£30 if any treatments in Category One are available and

£66 if any Category Two treatments are available.

## 2. Proposed Fees – Applications

### (a) New Applications

Category of Premises	Fee
<b>Low risk</b> * Application Fee * Compliance Enforcement Fee	£198 £107
<b>Medium risk</b> * Application Fee * Compliance Enforcement Fee	£281 £275
<b>High risk</b> * Application Fee * Compliance Enforcement Fee	£454 £275

### (b) Renewal Applications

Category of Premises	Fee
<b>Low risk</b> * Application Fee * Compliance Enforcement Fee	£68 £132
<b>Medium risk</b> * Application Fee * Compliance Enforcement Fee	£131 £275
<b>High risk</b> * Application Fee * Compliance Enforcement Fee	£244 £275

**Low Risk Group** – Ear piercing (lobe only); Nose piercing (nostril only)

**Medium Risk Group** – Skin piercing (acupuncture, dry needling, electrolysis – wart/skin tag removal, red vein treatment); Massage Treatments (including acupressure, aromatherapy, body massage, facial massage, reflexology); Electric and light treatments (including infra red treatments, ultra violet tanning (sunbeds) electrolysis – hair removal, faradism, galvanism, lipolaser, micro current therapy, high frequency, therma vein, ultrasound); Nail Treatments (manicure, pedicure, acrylic nail extensions); Bath/Vapour (sauna, spa pool, steam room/bath, hydrotherapy, floatation tank).

**High Risk Group** - Body Piercing (including piercing of body/face genital, beading, micro-dermal anchor); Tattooing (including micro blading, micropigmentation, tattooing); Laser (including intense pulsed light, laser, tattoo removal)

### 3. Current Fees – changes to existing licences

Type of Application	Fee
Transfer of Licence	25% of equivalent current Premises fee - subject to a minimum of £120
Variation of licence	£66 plus additional charges based on the nature of the proposed variation
Variation to approved treatments	Same as treatment charges listed above
Alteration to premises or facilities	£84
Alteration to permitted hours of operation	£42

### 4. Proposed Fees – changes to existing licences

Type of Application	Fee
Transfer of Licence	£76
Variation of licence to the same or lower risk group	£110
Variation of licence from low risk group to medium risk group	£215
Variation of licence to high risk group	£480
Alteration to plan of premises	£117
Theft or loss of licence	£36

### 5. Proposed Fee – one off event (no current fee)

One off event if licenced elsewhere	£131
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<b>One off event if licenced elsewhere</b>	£131
<b>One off event if not licenced elsewhere</b>  * Application Fee * Compliance Enforcement Fee	£116 £117

## WANDSWORTH/MERTON/RICHMOND BOROUGH COUNCIL

***Special Treatment Establishments  
Regulations made under section 10(1) of the London Local Authorities Act 1991  
(as amended) prescribing standard conditions and treatment specific conditions  
for Special Treatment Licences***

### 1. Introduction

These Standard conditions are applicable to all premises offering special treatments. They are made under section 10(1) of the London Local Authorities Act (as amended), effective from 1<sup>st</sup> April 2021. Their application does not replace or reduce the underlying statutory duty of employers and self employed persons to comply with the requirements of the Health and Safety at Work etc Act 1974 and any associated regulations and codes of practice.

In these conditions, unless the context otherwise requires:

- a) 'Approval of the Council' or 'Consent of the Council' means the approval or consent of the Council as licensing authority in writing.
- b) 'Council' means the Borough Council in which the premises are situated.
- c) 'Establishment for special treatment' has the meaning set out in section 4 of the London Local Authorities Act 1991 (as amended).
- d) 'Licence' means a special treatment licence granted under section 6 of the London Local Authorities Act 1991 (as amended).
- e) 'Licence Holder/Authorised person' means the person who is responsible for compliance with the standard conditions at all times the premises are open for business
- f) 'Council Officer' means any person properly authorised in writing by the Council.
- g) 'Premises' means any premises within the Council's area licensed for special treatment and includes all installations, fittings and things in connection therein.
- h) 'Special treatment practitioner' means a person who provides a special treatment to a client, often known as a therapist.
- i) 'The Act' means the London Local Authorities Act 1991 (as amended).

### 2. Dispensation or variation of the standard conditions

The Regulations allow for the removal or variation of any standard conditions adopted by the Council. These rules may be dispensed with or modified by the Council in any case as may be appropriate.

Where in these rules there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.

If the licence holder wishes any of the terms of the licence to be varied, an application must be made to the Council, and if the Council so require the application must be advertised.

**Please keep this document safely.** When you renew or vary your special treatment licence you will not be sent further copies of these conditions. If you should lose or mislay your copy of these standard conditions a further copy can be downloaded from the council's website

It is your responsibility to read and comply with these conditions. If you do not believe that you can comply with any of the conditions, or that you need time to comply with the conditions, you should apply in writing for this to be formalised in your licence. An officer will then consider your representation and will advise you of the decision. If you are dissatisfied with the officer's decision you should, in the first instance, contact the Commercial Services Manager, Regulatory Services Partnership, Environment & Regeneration, Merton Civic Centre, 100 London Road, Surrey SM4 5DX

**Standard Conditions for Special Treatment establishments**  
*These conditions apply to all premises granted a licence by the Council.*

**Please be aware that non-compliance with any of these conditions is an offence liable on summary conviction to a fine not exceeding level 4 on the standard scale**

## GENERAL

- 3. Trading Name and Address** The establishment shall trade at the address specified on the licence, and in the name specified on the licence.
- 4. Display of Licence** The licence (or a true copy of it) shall be displayed in a prominent position within the premises where it is clearly visible to clients. The conditions forming part of the licence need not be displayed.
- 5. Individual and Partnerships** The licence holder shall notify, in writing, to the Head of the Regulatory Services Partnership any change in the name or private address of the licence holder, or any other particulars of the business.
- 6. Companies (within the meaning of the Companies Act)** The Council shall be notified in writing of any change in the registered companies address or acquisition.
- 7. Permitted Treatments** No licensable treatment shall be given at the premises, unless it is of a type approved by the Council under the licence.
- 8. Scale of Fees** The licence holder shall at all time exhibit in a conspicuous position a complete scale of fees for special treatments given at the premises.
- 9. Powers of Council Officers:** Council Officers who are furnished with written authorisation, which they will produce on request, shall be admitted immediately at all reasonable times to all parts of the premises.
- 10. Insurance** The licensee shall hold public liability insurance for the treatments they administer to the sum of at least £2 million which must include and name all the treatments that are provided at the premises. A copy of the certificate shall be retained at the premises for inspection by Council Officers.
- 11. Alterations** No alterations (including temporary alterations) shall be made to the premises without the prior consent of the Council (not including repair and maintenance work).

## PRACTITIONERS

### 12. Competence

- Licensed treatments shall only be provided by a special treatment practitioner, or by a person undertaking training who is under the direct supervision of a special treatment practitioner.
  - The licence holder shall ensure that all special treatment practitioners are suitably qualified and trained, having regard to the Council's Guidance on the Qualifications and Training of Special Treatment Practitioners, and are competent to administer the treatment(s) they are to give.
  - Newly qualified special treatment practitioners must be supervised until the licence holder is satisfied that they are competent to practice. Trainees can only carry out licensed treatments under the supervision of a practitioner who has attained the relevant qualification and/or experience for that licensed treatment.
  - Records shall be kept on the premises of every special treatment practitioner or trainee practitioner who provides licensed treatments on the premises (whether or not directly employed, self-employed or otherwise engaged) and shall include the following information:
    - (a) Full name
    - (b) Home address
    - (c) Date of birth
    - (d) A photograph of the practitioner
    - (e) Full list of treatments offered by that practitioner at the premises
    - (f) Details of the qualification and/or training attained/completed and the awarding body, including copies of such qualifications.
    - (g) For a trainee practitioner the records must also indicate the name(s) of the training supervisor and a list of treatments that person is supervising
  - The records described above shall be kept on the premises whilst the special treatment practitioner or trainee practitioner is employed and/or carrying out special treatments at the premises and for a period of 2 years from the date when the special treatment practitioner or trainee practitioner ceases employment and/or providing treatment at the premises.
- 13. Personal Hygiene** Every special treatment practitioner and trainee practitioner shall maintain a high degree of personal cleanliness and shall wear suitable, clean and where appropriate protective, clothing. Any open boil, sore, cut or other open wound must be covered by an impermeable dressing, Hands must be washed immediately prior to carrying out any treatment and practitioners must refrain from consuming food during the course of a treatment
- 14. Clothing** The licence holder shall ensure that all persons present in any part of the establishment are decently and properly clothed at all times, except for those persons receiving treatment.
- 15. Infectious Diseases** No person known or suspected to be suffering from, or to be a carrier of a disease likely to be transmitted through the administration of a treatment shall be permitted to undertake such treatments
- 16. Unsuitable Person** The licence holder shall not employ at the premises any person who s/he has been notified in writing that the Council considers unsuitable to be employed in such premises or to provide specified treatments.
- 17. Understanding of English** At least one person present on the premises on any day shall have an understanding of spoken or written English in order to satisfactorily discuss client records and aftercare advice.

## PREMISES

18. **Electrical installation** A copy of the current Electrical Installation Condition Report must be available at the premises and provided to Council Officers on request
19. **Cleanliness and Condition of Premises** The premises must be kept clean and maintained in good repair and condition.
20. **Cleaning and Maintenance** All articles, fittings and equipment used or within the treatment area shall be readily cleansable, kept clean and maintained in an effective working order.
21. **Documented Cleaning Schedule** A cleaning schedule specifying the object/area to be cleaned and the method of cleaning shall be produced by the licence holder and a copy retained at the premises. This cleaning schedule must include frequency of cleaning and type of detergent/disinfectant to be used. Daily cleaning procedure must include surfaces that are touched regularly such as light switches, door-knobs, cupboard handles etc. The procedure shall include the procedure that must be followed in the event of any blood spillage. A copy of the cleaning schedule must be made available to Council Officers on request
22. **Changing Facilities** Adequate changing facilities for clients must be provided where necessary.
23. **Wash Hand Basins** Wash hand basins for the cleaning of hands must be provided with hot and cold (or appropriately mixed) running water, materials for cleaning hands and for hygienic drying. The number and location of wash hand basins available in the treatment area and designated for cleaning hands must not be altered without the written consent of the Council. Where necessary the provisions for decontamination of equipment must be separate from the hand-washing facility. Water supplies to wash hand basins shall be fed from a mains supply and the waste shall be discharged to a suitable drainage facility.
24. **Ventilation** There shall be suitable and sufficient means of natural or mechanical ventilation.
25. **Privacy** Where it is intended that more than one person shall be treated in a room, suitable screening shall be provided to maintain privacy where necessary.
26. **Door Locks** All treatment rooms that are provided with locks and are used for self-administered treatments shall be provided with door locks, capable of being opened from the outside by the licence holder (or his representative) in the case of an emergency. Additional fixed locks or dead-locks are not permitted.
27. **Animals** Animals are prohibited and must not be allowed in the treatment rooms/area.

## WASTE

28. **Waste material** Waste material shall be placed in a suitably covered leak-proof receptacle which shall be emptied at least once a day and kept clean. Used needles, hypodermic syringes and other sharps must be placed into a suitable sharps container approved to BS 7320:1990, immediately after use. The licence holder shall ensure that all waste is disposed of safely and correctly by means of a commercial waste collection contract.

## EQUIPMENT

29. **Autoclaves, Pressure Systems and Other Equipment** Where necessary a suitable autoclave shall be provided. Suitable and effective arrangements shall be made to ensure that the autoclave and any other pressure systems and other equipment are properly maintained. Where the manufacturer or supplier has provided maintenance instructions for all or part of the system, these will form



the basis of the maintenance programme. If they are not comprehensive enough to cover the on-site operating conditions, they should be supplemented as appropriate.

Any equipment operating under pressure shall be inspected for safety by a competent person. Copies of the inspection records shall be provided to Council officers on request

**30. Decontamination** Documented procedures for the decontamination, disinfecting and sterilisation of equipment shall be provided at the premises and must be made available to Council Officers on request

**31. Needle Stick Injuries** Where equipment likely to cause needle stick or other puncture/cut injuries is in use, the licence holder shall provide all therapists with a written needle stick injury procedure. The procedure shall state what action to take in the event of a needle-stick injury occurring. All needle stick injuries shall be recorded and details of the incidents kept at the premises for at least 2 years.

## CLIENTS

**32. Clients' Records** Before any treatment is administered to another person, the person giving the treatment or another competent person, shall interview the person to be treated and record the following details. The interview shall be conducted in a language that is understood by the person to be treated. Where this is not possible, no treatment shall be given. If records are written in a language other than English, then the licence holder shall provide a written translation into English, of each record within 2 days of the record being taken:

- (a) the full name and address of the person to be treated
- (b) the treatment to be given
- (c) the dates on which the treatment is given
- (d) the name of the person giving the treatment
- (e) the client's relevant medical history, including any contra-indications to the treatments to be given
- (f) the client's consent to receive the treatment (see "informed consent" below).
- (g) every treatment (and repeat treatments, or continuation treatments) shall be recorded.

**33. Proof of Age/Identity** The licence holder must ensure that an age verification policy is adopted in respect of the premises such that anyone who appears to be under the age of 25 is asked to provide proof of their age. The steps that have been taken to verify the age and identity of these clients must be recorded, either by inserting the relevant information on the treatment record form, or by photocopying the relevant documentary evidence provided by the client. Acceptable identification must bear a photograph, date of birth and either a holographic mark or an ultraviolet feature and includes:-

- a photo-card driving licence which includes the name and address,
- a passport
- an age verification card with hologram or ultra-violet strip.

**34. Informed Consent** Before any treatments are given to another person, the person giving the treatment or another competent person, shall inform the person receiving the treatment of any possible complications and/or side effects of the treatment, and ensure that they fully understand these. The items discussed shall be recorded along with the client's details. The person receiving the treatment shall sign the record to show that they understand what they have been told and consent to the treatment.

**35. Aftercare Advice** Aftercare advice shall be given in respect of all treatments. This shall be in written form in the case of nail extensions, tattooing, microblading, micropigmentation, cosmetic piercing and ear and nose piercing

and shall include information on what to look out for regarding possible complications. Confirmation that aftercare advice has been given shall be recorded on the client record, to include whether written aftercare advice was provided.

**36. Complaints Procedure** The licensee shall provide a written procedure to deal with complaints from customers. All complaints shall be recorded along with details of the following:

- i. what action was taken to resolve the complaint; and.
- ii. any changes made in response to the complaint

**37. Records** All records concerning special treatments, age verification and complaints shall be kept at the premises for at least two years.

**38. Alcohol and Drugs** No person shall give or receive a treatment whilst under the influence of alcohol or non-prescribed drugs.

**Treatment Specific Conditions**

*These conditions shall only apply where consent for such a treatment has been granted by the Council.*

**Please be aware that non-compliance with any of these conditions is an offence liable on summary conviction to a fine not exceeding level 4 on the standard scale**

**(a) Cosmetic Piercing & Tattooing**

**39. Definitions**

- (i) 'Tattooing' means microblading/micro-pigmentation (semi-permanent make up) and any treatment that involves breaking the skin and placing pigments, dyes or other coloured substances under the outer layer of the skin to provide a cosmetic enhancement of the skin. It does not include "henna tattoos" or other dyes, pigments or coloured substances where these are placed directly on the skin and no skin is broken, whether they are permanent or not.
- (ii) 'Cosmetic Piercing' means any form of treatment where the client's skin is broken and any article is inserted into the skin with the intention of leaving the article in the skin after the treatment. This does not include:
- Injection of substances by hypodermic needle carried out by a medical practitioner or other persons.
  - Piercing of the ear lobe only, by means of a proprietary "ear piercing gun"
  - Nose piercing as defined below
  - Any minor surgical procedures such as scarring, beading, or any other treatment involving cutting or breaking the skin for the purposes of cosmetic modification, apart from piercing as defined above. These types of treatments will not be licensed.
  - Branding or any other form of burning the skin:- these types of treatments will not be licensed.
- (iii) 'Nose Piercing' means piercing of the nasal cavity walls only, and no other part of the nose.
- (iv) 'Ear piercing gun' means any device or instrument designed specifically for piercing ears, whether disposable or not.
- (v) 'Nose piercing gun' means any device or instrument designed specifically for piercing the nasal cavity wall with the nose stud without the need for a clasp/butterfly clip..

**40. Additional Competencies** In addition to condition 12 above, cosmetic piercers and tattooists must be able to demonstrate a thorough knowledge of sterile procedures and an understanding of the routes of disease transmission and how to prevent cross contamination. They must also be conversant with all contra-indications of illness that will effect tattooing/piercing or may have been caused by tattooing/piercing and procedures to deal with emergency bleeding.

**41. Additional conditions** In addition to the conditions 13 and 14 above, cosmetic piercers and tattooists are required to wear disposable gloves throughout the

procedure. These should be disposed off as clinical waste after every procedure

- 42. Ear Piercing Gun** An ear piercing gun shall only be used for carrying out a piercing to the lobe of the ear. For piercing any other area of the ear, only pre-sterilised, hollow needles shall be used.
- 43. Informed consent** In addition to condition 32 above, a sign stating that tattooing is permanent and stating the potential side effects and disadvantages of tattooing shall be clearly displayed in a position where clients can see it as soon as they enter the premises. These issues shall also be fully explained to the client before any tattooing takes place and shall form part of the 'informed consent' form.
- 44. Cosmetic Piercing** Cosmetic piercing shall **not** be administered to any person under the age of 16 years, with the exception of:
- a) Piercing of the ear-lobe only
  - b) Nose piercing (as defined above).
- In both these cases, piercing shall only be allowed by parental/guardian consent. A parent or guardian must be present at the time of piercing and must sign the "informed consent" form
- 45. Cosmetic piercing** Cosmetic piercing of nipples and genitals shall not be administered to any person under 18 years.

**(b) Sauna, Steam Rooms, Spa Pools and Ultra Violet (UV) light facilities**

**46. Definitions**

- (i) 'Remotely operated facilities' means a facility which is remotely operated when the special treatment practitioner is out of audible range of the treatment rooms and would therefore be unable to hear a call for help from a person using the equipment (for example: sports centres or other larger premises that offer a range of different services, where the treatment areas are not directly supervised by a special treatment practitioner ).
- (ii) 'Tanning accelerants and or amplifiers' means any cream, lotion or other substance which increases (or purports to increase) the amount of UV light reaching or absorbed by the skin. This does not include substances which increase (or purport to increase) the production of melanin in the skin, but which do not increase UV exposure.

- 47. Additional Competencies – UV light facilities** In addition to condition 12 above all special treatment practitioners shall have knowledge of how to calculate skin types, what skin types mean in relation to tanning, recommendations regarding who should and should not use UV tanning facilities (and the reasons why), maximum recommended exposure times (as set by manufacturers and government), the risks involved in using UV light treatments and the reasons for using eye protection
- 48. Remotely Operated Facilities** Where any treatments are operated remotely (see definitions), the facilities shall include a means for the person receiving the treatment to summon assistance from a member of staff. The alert mechanism must be clearly marked and visible from the treatment position, and it must enable the person receiving the treatment to summon assistance from the treatment position. The person receiving the treatment shall be made aware of

the alert mechanism and how to use it. The warning generated by the alert mechanism shall be positioned in such a position as to always be visible and/or audible to a member of staff. The licensee shall produce a written policy detailing the action to be taken in the event of an alert mechanism being used. This policy shall be communicated clearly to all members of staff.

**49. Management Procedure** Where treatments are operated remotely, the licensee shall provide a procedure whereby all treatment rooms are checked every 20 minutes. Where treatments are timed (such as UV light treatments), the licensee shall provide a procedure to ensure that the person receiving the treatment has finished it safely.

**50 Control of usage – UV light facilities.** A special treatment practitioner or other person competent in the use of the equipment shall control the exposure time in all UV light facilities. The method of controlling the exposure time shall be such that it cannot be over-ridden by the person using the equipment. Where a token system is used measures must be taken to prevent someone from collecting several tokens and using them together to increase session length.

**51. Information for persons using UV light facilities** The first time a person uses the facilities they shall be given clear written information regarding the matters listed below. This information must be given by a practitioner, and they must also explain the information verbally and make reasonable efforts to ensure that the person receiving the treatment understands the information:

- How to calculate their skin type and what the skin types mean in relation to tanning. Persons who are skin type 1 must be advised that they are unlikely to tan and are recommended not to use UV light treatments.
- The risks involved with exposure to UV radiation (skin cancer, premature ageing etc.).
- Health and Safety Executive (HSE) recommendations on the maximum number of sessions per year.
- The reasons for wearing eye protection against UV light.

**52. Record Keeping – UV light facilities**

(i) The licensee shall implement a system to record that the above information has been given to people using the facilities for the first time. It is recommended that this is done by way of a pro-forma that contains all the information with a space for the person to sign to say that the information has been explained to them and that they understand it.

(ii) There shall be a system for keeping a record of how many sessions a person has had. When a person reaches the maximum recommended amount (currently 20) they shall be informed of this and advised that they have reached the recommended limit for exposure. This information shall be recorded on the person's record card, and signed by the person receiving the treatments.

(iii) The above mentioned records shall be kept at the premises for at least 2 years.

**53. Eye Protection** All persons who use UV light equipment shall be provided with eye protection against UV light free of charge.. Any eye protection equipment provided shall comply with the British Standard that is issued on the subject of UV light eye protection.

- 54. Tanning Accelerants and/or Amplifiers** The special treatment practitioner must not recommend any form of tanning accelerant or amplifying creams or lotions.
- 55. Emergency Cut Off** All UV light facilities shall include an emergency cut off switch that turns off the power to the equipment. The switch shall be clearly marked and must be in a position where it can be operated by the persons receiving the treatment. The customer shall be advised of the position and use of the cut off.
- 56.A Copy of the Poster** “UV tanning equipment” (INDG209 rev2) or latest revised version shall be displayed in a position where the customer can easily read it. The customer shall be advised of the poster and asked to read it before treatments are commenced for the first time. This poster can be obtained at <http://www.hse.gov.uk/pubns/misc869.pdf>
- 57.Additional conditions – sauna**
- (i) A thermometer shall be provided indicating the temperature inside the sauna
  - (ii) A clock or timer shall be provided in a position that is visible to users from inside the sauna
  - (iii) An emergency assistance device shall be provided in the vicinity, which is linked to a suitable staffed area. The alarm shall continue to sound until it is manually switched to the ‘off; position in order to silence it.
  - (iii) The temperature control device shall not be accessible to users of the sauna
  - (iv) Where provided, hot coals in a sauna shall be protected by a guard rail or barrier
  - (v) A supply of fresh drinking water shall be available close to the sauna
  - (vi) Safety guidelines on the use of the sauna shall be displayed near to the sauna.
  - (vii) A rest area shall be provided close by where users of the sauna can rest after their treatment.
- 58.Additional conditions – spa pool/Jacuzzi/baths**
- (i) All operators must refer to and comply with the Health & Safety Executive’s Guidance HSG282 ‘The control of legionella and other infectious agents in spa-pool systems’. This should include recording test results.
  - (ii). An emergency assistance device shall be provided in the vicinity, which is linked to a suitable staffed area. The alarm shall continue to sound until it is manually switched to the ‘off; position in order to silence it.
  - (iii). Shower facilities shall be provided close to the sauna/steam room
  - (iv). A notice providing information on the use of the spa pool must be clearly displayed near each unit.

**(c) Nail treatments**

**59. Definitions**

‘Nail Treatments’ means any of the following: Manicure, Pedicure, Nail Extensions or artificial nails of any kind, or any other treatments involving cutting, or abrading of the nails, nail cuticle, or the skin around the nails of either the hand or the feet. Nail extension treatments shall include any treatment that involves extending the length of the natural nail with any materials, and repair and/or upkeep of nail extensions.

**60. Nail Drills** The uses of nail drills on a person's own natural nail is prohibited. Nail drills shall only be used to file away an artificial nail surface. Nail drills shall not be used to file the area where a natural nail is joined to an artificial nail. Where nail drills are used, only persons who have received specific training in their use and who are competent in their use shall use them.

**61. Cleaning**

**(i) Equipment** Between each treatment, all equipment that is used in treatments shall be scrub-cleaned with detergent and water, dried using clean disposable paper towels and disinfected. Any equipment that cannot be cleaned in this way shall be single use disposable. Any equipment that has been contaminated with body fluids (e.g. blood/serum) shall either be sterilised or disposed of safely after use

**(ii) Surfaces** All surfaces used during treatments shall be cleaned with a suitable disinfectant between each client.

**62. Nail extensions**

**(i) Ventilation** Where nail extension treatments are carried out, suitable air filtering and extraction must be provided at desk-top level to remove dust and chemicals from the air. Air extraction must be by way of an extractor hood or a downdraught table. The air inlet speed into an extractor hood should be around 0.5 metre per second. For a downdraught table a downdraught of around 1 metre per second is required into the table. Suitable dust and chemical filters must be in place within the filter system. Alternatively chemical fumes may be discharged directly outside the premises but this must be to a point that does not give rise to nuisance to surrounding properties. Dust, and where applicable, chemical filters must be changed at suitable intervals as recommended by the manufacturer. All air filtering/extraction equipment shall be maintained in good working order in accordance with manufacturer's instructions. In addition to any desk-top ventilation, the treatment room must be provided with good general ventilation with a minimum of 8 air changes per hour

**(ii) Training** Staff must have formal training in acrylic nail application e.g. NVQ level 3

**(iii) Chemical usage** The use of products containing Methyl methacrylate (MMA) is prohibited.

**(d) Intense Pulsed Light & Laser Treatments**

**63. Definition**

'Laser' means a laser classified as 3b and/or 4, intense pulsed Light (IPL) and other Intense Light (ILS) used for non-surgical treatments such as hair removal, skin rejuvenation, tattoo removal, cellulite treatment.

**64. Local Rules and Treatment Protocol** A Local Rules and Treatment Protocol must be provided for each premises and these will, in addition to the standard conditions and treatment specific conditions, become the licence conditions for that particular premises.. The Local Rules and Treatment Protocol must be drawn up by a competent person.

**65. Treatment protocols** A separate Treatment Protocol must be in place for each laser or IPL in use at the premises. The Treatment Protocol must include the following:-

- Name and technical specifications of the equipment;

- Any potential contraindication;
- Treatment technique
- Client consent prior to treatment
- Cleanliness and infection control within the treatment area
- Pre-treatment tests (including patch testing)
- Post-treatment care
- Recognition of treatment related problems
- Procedure for dealing with treatment related problems and other adverse incidents
- Permitted variation on machines variables
- Procedure in the event of equipment failure

A copy of the Treatment Protocol shall be kept on site and shall be produced on request by an authorised officer of the council

**66. Local rules document** The laser/IPL must only be used in accordance with the Local Rules and shall include the following:-

- Potential hazards; Including fire, skin and eye injuries, electrical etc.
- Location and control of equipment; The room the machine is used in and how the machine is controlled.
- Training needed by the people using or helping to use the laser/IPL
- Device description; Description of all devices including output, serial numbers etc.
- Personal protective equipment, especially eyewear
- Methods of safe working including layout of equipment
- Normal operating procedures.
- Explanations and instructions on pre-use safety checks
- Adverse incident procedure; Details of actions to be taken in cases of emergency. Name address and contact details of local accident and emergency department.
- Emergency shutdown procedure; Instructions as set down in user manual and treatment protocol.
- Register of authorised users; Details of trained personnel with signed declarations.
- Contact point for laser protection supervisor

The Local Rules should be reviewed following any significant changes to the premises i.e. change of room or/and any change to the Laser/IPL equipment  
A copy of the Local Rules document shall be kept on site and shall be produced on request by a Council Officer.

**67. Equipment**

(i). All laser/IPL equipment shall comply with current standards BS EN 60601-2-22 for medical lasers and BS 60601-2-57 and shall display labels identifying them, their wavelength or range of wavelengths and the maximum output power of the radiation emitted. The labels shall be clearly visible on the front or side of the machine.

(ii) The key to the laser/IPL equipment shall be kept in a secure and separate area when the machine is not in use and only authorised users shall have access to the key.



(iii). The Laser/IPL equipment shall be serviced annually and a record kept with the local rules document of all servicing and repairs.

#### **68. Record keeping**

In addition to the general rules that apply to all premises for all special treatment premises a treatment register shall be completed every time the laser/IPL is operated, including the following information:-

- (i) The name of the person treated;
- (ii) The date and time of treatment;
- (iii) The name of the laser/IPL operator;
- (iv) The nature of the laser/IPL treatment given;
- (v) Checking of skin type and pigmentation;
- (vi) The treatment parameters and details; and
- (vii) Any potential adverse effects.

## Advice and Guidance.

Further advice and guidance which does not form part of these conditions is available as signposted below:-

- Health & Safety at Work Act and associated regulations including: risk assessments, control of substances hazardous to health, first aid regulations and electricity at work regulations  
Health and Safety Executive website [www.hse.gov.uk](http://www.hse.gov.uk)
- Infection control, management of waste (including needles and contaminated waste) , decontamination, exposure to blood and body fluids, before and aftercare, disinfection, autoclaves, steam sterilization, product quality and training from the Chartered Institute of Environmental Health including the “Tattooing and Body Piercing Guidance Toolkit” [www.cieh.org](http://www.cieh.org)
- Beauty treatments including advice and information on training, skills, business development and industry codes of practice [www.habia.org](http://www.habia.org)
- Medicines and medical devices from the Medicines and Healthcare Products Regulatory Agency [www.mhra.gov.uk](http://www.mhra.gov.uk)
- Advice on health protection, all health related matters and emergency contact procedures from Public Health England and the National Health Service at [www.england.nhs.uk](http://www.england.nhs.uk) and [www.gov.uk/government/organisations/public-health-england](http://www.gov.uk/government/organisations/public-health-england)
- Tattooing of Minors Act 1969  
<http://www.legislation.gov.uk/ukpga/1969/24/contents>
- Sunbed Regulations Act 2010  
<http://www.legislation.gov.uk/ukpga/2010/20/contents>
- Lasers, intense light source systems and LEDs – guidance for safe use in medical, surgical, dental and aesthetic practices  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/474136/Laser\\_guidance\\_Oct\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/474136/Laser_guidance_Oct_2015.pdf)
- Laser and Light Therapy Machine Guidance and Local Rules Guidance  
[https://www.babtac.com/userfiles/files/gpg-laser-and-ipl-27\\_06\\_11.pdf](https://www.babtac.com/userfiles/files/gpg-laser-and-ipl-27_06_11.pdf)  
<https://www.babtac.com/userfiles/files/babtac-laser-and-light-therapy-local-rules.pdf>
- Health and Safety Advice on complying with the Control of Substances Hazardous to Health Regulations 2002 (COSHH),as amended,to control exposure and protect workers’ health in nail bars.  
<http://coshh-tool.hse.gov.uk/assets/live/SR13.pdf>
- HSE Guidance for Employers on the Control of Artificial Optical Radiation at Work Regulations (AOR)  
<https://www.hse.gov.uk/radiation/nonionising/employers-aor.pdf>

## **REGULATORY SERVICES PARTNERSHIP**

### **REGULATIONS GOVERNING APPLICATIONS FOR GRANT, RENEWAL, TRANSFER AND VARIATION OF SPECIAL TREATMENT LICENCES AND THEIR DETERMINATION**

#### **APPLICATION FORMS**

1. Applications for the grant, renewal, transfer or variation of licence shall be made on the current forms provided by the Council. The application form must be completed in full and must be submitted with the appropriate fee.
2. The applicant for the licence must be the person, company or organisation who is in lawful control of the establishment/area where the treatments are to be given. This must be by way of holding the freehold, a lease or agreement to lease, a tenancy or written agreement giving right of occupancy.
3. The application form shall be signed by the applicant(s). In the case of a partnership, all parties must sign. In the case of a limited company, a director or company secretary must sign. In all cases the application may be signed by a Solicitor acting for the applicant.
4. The applicant will supply such other information as may be reasonably required by the Council for the purpose of determining the application.
5. The information required in the application forms and the format of the forms shall be determined by the Head of the Regulatory Services Partnership/

#### **PLANNING**

6. The premises must have the necessary planning permission to operate as a Special Treatment Establishment. Information on all new applications will be provided to planning.

#### **FEES**

7. At the time of application, the applicant shall submit the prescribed fee covering the cost of the licensing procedure. The application shall not be processed if the fee has not been paid
8. If the application is successful, a further fee covering the costs of the running and enforcement of the licensing regime shall be paid

#### **PLANS AND DOCUMENTATION TO ACCOMPANY AN APPLICATION**

9. In the case of all new applications or where alterations have been made to the premises prior to or during renewal or where a variation to the layout of the premises is sought submit a plan of the premises. The information contained in the plan must be clear and legible in all material respects and must show the extent of the boundary of the building, including any external

and internal walls; all entry and exit points; the location of the areas where special treatments are to be provided; the location of all toilets; the location of all washing facilities. The Council recommends that all plans be drawn to a scale of 1:50 on a single sheet of A4 or A3 paper. Circumstances where an alternative scale may be acceptable could include where the size of the premises makes it impracticable for the premises to be adequately shown on a single sheet of A4 or A3 paper.

10. Where the applicant is seeking a licence to provide laser/intense light (IPL) treatments they must submit a copy of Local Rules and Treatment Protocol as provided by section 4 of the prescribed standard conditions and treatment specific condition for Special Treatment Licences.

#### **ADDITIONAL DOCUMENTATION**

11. Before a licence is issued the applicant must ensure that they have the following in place:
  - (i) Public liability insurance for all proposed treatments to the sum of at least £2 million. The insurance must include, and name, all treatments to be provided.
  - (ii) An electrical certificate for the installation at the premises (fuse-box, wiring, lighting etc) provided by a properly registered electrical engineer.
  - (iii) An electrical safety certificate for all portable/moveable appliances (e.g. electrolysis/faradic machines, wax pots, kettles)
  - (iv) A current gas safety certificate for the installation and appliances in use at the premises. The certificate must be provided by a Gas Safe registered engineer capable of working in business premises.

Copies of the certificates must be provided to an authorised officer of the local authority on request.

These certificates must be kept up to date and must be held on site and available for inspection whilst a licence is in operation.

#### **ADVERTISEMENT OF APPLICATION**

12. On the date on which the application for the grant of licence is made, the applicant shall arrange for the display of a notice of application on the form provided by the Council on part of the premises that is the subject of the application. The notice shall be displayed to the satisfaction of the Council, conspicuous to persons in the street and maintained in that position for 14 days. This will not normally apply to the renewal of a licence except where the Council considers it necessary and advises the applicant in writing of the requirement to display such notice.

At the discretion of the Council, notice shall also be required for variations of licence, e.g., extension of premises.

#### **NOTIFICATION OF APPLICATION TO THE POLICE AND THE LONDON FIRE COMMISSIONER**

13. In accordance with the London Local Authorities Act 1991 a copy of any new, renewal or transfer application shall be forwarded to the police and Fire Authority.

## **CONDITIONS**

14. The Standard Conditions adopted by the Council shall be applied to all Licences that are issued, unless the Council specifically excludes them or substitutes them with different conditions
15. Upon determination of an application for a grant, renewal, variation or transfer of a Licence the Council may remove or vary one or more of the Standard Conditions, and/or may specify any other additional conditions
16. Where an application includes a request for any Standard Condition to be removed or varied, the applicant shall be required to give sufficient and satisfactory reasons for that request and provide alternative conditions for the Council's consideration if appropriate. The Council may refuse any request to remove or vary any Standard Condition if a sufficient and satisfactory reason has not been demonstrated

## **OBJECTIONS**

17. Any person may make an objection to an application within 28 days of the application being submitted, clearly stating the grounds for objection. The Council will not accept any objection that does not state the grounds for objection, or where those grounds are not a matter that the Council can consider when determining an application. Persons making an objection must include their full name and address, including post code. A copy of the objection will be forwarded to the applicant.
18. Objections received after the 28 day period will not normally be considered. In exceptional circumstances the Council has discretion to consider late objections if the application has not yet been determined. Such circumstances may be where the advertising of the application has been delayed or where there has been a material change to the application during the application process.
19. The applicant shall receive a copy of each objection received and be invited to address those objections in writing to the Council. If agreement cannot be reached between parties, the application will be decided by the relevant Council Committee.
20. A Licensing Officer of the Council may object to an application at any point in the application process if the application has not been determined, regardless of the 28 day period for objection. Such objections may be made because of new information coming to the Licensing Officers attention before the application is determined or where the applicant has failed to provide information requested during the application process.
21. A licensing officer may:
  - refuse an application if all the relevant information has not been provided;

- refuse to include a treatment on a licence;
- refuse a request to remove or vary a standard condition;
- remove or vary a standard condition; and/or
- add conditions to a licence

without referral to the relevant Council Committee. If an applicant objects to the actions of the officer they may raise a complaint through the Council's complaints procedure. However, where a bona fide application has been received then a licensing officer may not refuse an application in its entirety. In all such cases the application will be decided by the relevant Council Committee.

## **LICENCE**

22. Unless otherwise stated a licence shall be granted for periods of one year (unless the licence application is for a temporary period only e.g. for a 'one off event').
23. The Council may grant a provisional licence where an application has been made in respect of premises which are to be, or which are in the process of being, constructed, extended or altered. The Council must be satisfied that the premises would comply with their requirements on completion of the work. The licence, if granted, will be subject to a condition that it shall have no effect until confirmed by the Council following an application to vary the licence to remove that condition.
24. An application must be made annually to renew the licence before the date of expiry of the existing licence, otherwise a new licence application will need to be submitted.
25. A licence can be varied to add or remove treatments or to alter the structure or layout of the premises (including changes to treatment areas, position and numbers of toilets and siting of hand and equipment washing facilities)
26. A licence can be transferred to a new licence holder but not to a new premises.

## **WAIVER TO REGULATIONS**

- 27 Any of these rules may be waived altered or modified by the Head of the Regulatory Services Partnership in exceptional circumstances.