

Regulatory Services

Licensing

Special Treatments Premises

Special Treatments Rules of Procedure

Special Treatments Premises Licence Applications

This document is to be read in conjunction with the Council's
Special Treatments Regulations.

1. Introduction

- 1.1 Part II of the London Local Authorities Act 1991 requires that establishments for special treatments be licensed by the Borough Council. The meaning of establishment for special treatment is defined by the Act as, “any premises 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 the like kind or vapour, sauna or other baths”.

Exemptions

- 1.2 It 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;
 - (iv) in the case of osteopathy, a person registered as a fully registered osteopath or a conditionally registered osteopath under the [1993 c. 21.] Osteopaths Act 1993;
 - (v) in the case of chiropractic, a person registered as a fully registered chiropractor or a conditionally registered chiropractor under the [1994 c. 17.] Chiropractors Act 1994;
 - (c) any premises which are used by a person who is registered by a board under the [1960 c. 66.] Professions Supplementary to Medicine Act 1960—
 - (i) solely for the practice of the profession in respect of which he is so registered;
 - or
 - (ii) for the practice of the profession in respect of which he is so registered and for the conduct by him of any business ancillary to such practice and no other purpose;
 - (d) any hospital provided by the Secretary of State or by a National Health Service Trust established under the [1990 c. 19.] National Health Service and Community Care Act 1990 or by a charity which is registered under section 4 of the [1960 c. 58.] Charities Act 1960 or is exempted from registration by subsection (4) of that section;
 - or
 - (e) any nursing home which is for the time being registered under Part II of the [1984 c. 23.]

Registered Homes Act 1984 or exempted from registration under that Part of that Act;
(f) any premises where the only special treatment carried out is of a class which from time to time is by resolution of the borough council excluded from the operation of this Part of this Act;

A copy of the legislation can be found at

<http://www.legislation.gov.uk/ukla/1991/13/contents/enacted>

The Council is a member of the London Special Treatments Group and also accepts as exempt all members at the appropriate level of those bodies appearing in the current “List of Bodies of Health Practitioners Granted Exemption by The London Special Treatments Group”. The list is available on the Council’s website.

Period of Licence

- 1.3 A special treatment licence is valid for a maximum period of 12 months.
The Special Treatments licensing year runs from 1st April until 31st March and all licences expire on 31st March, regardless of when the license was issued.

Licensees must ensure, if they wish to continue to offer special treatments at the premises, that an application to renew the licence is submitted to the Council before 31st March each year. If no such application is received by the Council by that date any continued provision of special treatments at the premises will be an offence and render the occupier liable to prosecution. The Licensing Team will endeavour to send a reminder letter to every licence holder a few weeks before the expiry of the licence.

2. Application Requirements

- 2.1 **Note:** It is a statutory requirement under the London Local Authorities Act 1991 that copies of all applications will be sent to the Metropolitan Police Service and the London Fire Brigade.

For all applications, the application fee must be paid before the application is submitted (the current table of fees is available on the Council’s website; online payment only is accepted); the full licence fee is payable on approval of the application.

All forms are downloadable from the Council’s website or are available in hard copy on request from the Licensing Team.

New Licence Applications require the following to be submitted:

- a completed Application for a New Special Treatments Premises Licence form
- a completed Practitioner Details form for each proposed practitioner
- copies of qualifications for each practitioner in respect of each treatment they propose to provide, a copy of photo identification for each proposed practitioner and a separate digital photograph

- a completed Declaration of Convictions for all persons and/or organisations named on the application form
- a plan or line drawing of the premises (preferably no larger than A4 size with a minimum scale of 1:100), which should identify the following:
 - the full extent of the proposed licensed premises
 - defined treatment areas/rooms
 - entrances, exits and escape routes
 - WCs, showers and wash hand basins
 - passageways
 - general location of equipment
 - safety equipment including:
 - emergency lighting
 - automatic fire detection
 - firefighting equipment
 - Fire Exit signage

In addition, where the proposed special treatments include laser and or and/or intense pulsed light (IPL) treatments:

- a copy of a contract for the services of a Laser Protection Advisor (LPA), who must be certified and registered with either RPA 2000, the Association of Laser Safety Professionals or Public Health England
- evidence that the LPA has visited the premises and undertaken an assessment of its suitability for use for the provision of laser/IPL treatments
- details of the make, model, serial number and technical specifications of each item of laser/IPL equipment

Licence Renewal Applications require the following to be submitted:

- a completed Application to Renew a Special Treatments Premises Licence form
- if any changes to the licence are required, a completed Application to Vary a Special Treatments Premises Licence form and associated documents must also be submitted

Transfer of Licence Applications require the following to be submitted:

- a completed Application to Transfer a Special Treatments Premises Licence form
- a Consent to the Transfer of a Special Treatments Premises Licence form completed by the existing licensee OR evidence of efforts made to obtain the existing licensee's consent
- if any changes to the licence are required, a separate Application to Vary a Special Treatments Premises Licence form and associated documents must also be submitted

Applications to Vary a licence require the following to be submitted (as applicable):

- a completed Application to Vary a Special Treatments Premises Licence form
- a completed Practitioner Details form for any new proposed practitioners
- copies of qualifications for each new practitioner in respect of each treatment they propose to provide, a copy of photo identification for each proposed practitioner and a separate digital photograph
- a Declaration of Convictions form completed by each new person named on application
- details of the make, model, serial number and technical specifications of each new item of laser/IPL equipment proposed to be used at the premises
- revised plan detailing any proposed changes to licensed premises

3. Application Procedure

- 3.1 An application for a new licence must be made on the prescribed form and must be completed by or on behalf of the proposed licensee. The completed form and supporting documents may be submitted to the Council by post or by email. The application form must be signed by the applicant, a solicitor or other duly authorised agent acting on behalf of the applicant.
- 3.2 Anyone over the age of 18 may apply for a special treatment licence. Partnerships and bodies corporate may also apply for a special treatment licence but must supply the names and private residential addresses of all partners or directors. In all cases details must be provided for persons who will be responsible for the day to day management of the premises.
- 3.3 The application must be accompanied by a plan of the premises for which a licence is sought.
- 3.4 The applicant must pay a non-refundable application fee.
- 3.5 If one or more of the application criteria are not met, in that all requisite documents or information has either not been provided or is found to be unsatisfactory, the application will be deemed invalid and the applicant notified. The Council will allow the applicant to submit any outstanding or additionally required documents. If these documents are provided the application will be deemed valid from the day they are received, and the approval process commenced. If outstanding documents are not received within 14 days of notification, unless alternative arrangements have been agreed with the Licensing Team, the application will become void. Should the applicant still wish to be granted a special treatments premises licence, a new application must be submitted with the payment of another application fee.
- 3.6 Once an application is determined to be valid by the Council, a 28-day formal consultation period will begin, during which time statutory consultees, and anyone else who wishes to, may make representations in relation to the application.
- 3.7 The Council will require the applicant for the grant of special treatments premises licence to advertise the application by exhibiting a notice, visible from the outside of the premises for which a licence is sought, for a period not less than 28 days.

The notice will include details of the licence application and information on how anyone may register an objection to the grant of a licence. A copy of the notice will also be placed on the Council's website for the duration of the consultation period.

3.8 The statutory consultees for the licence application are those professional bodies whose opinion the Council will consider in determining the application. These are:

- a. London Borough of Barking and Dagenham Health and Safety Team
- b. London Fire Brigade
- c. Metropolitan Police Service

3.9 As part of the application process, one or more of the consultees may inspect the premises as soon as is practicable after receipt of the application and will contact the applicant directly to arrange this. Once they have considered the application and/or inspected, they may object on any grounds they think may render the premises inappropriate for providing special treatments or prevent it being safe for use by the public.

3.10 Each consultee has its own set of requirements considered when deciding if a premise or applicant is fit to be granted a licence or not. An indication of these is given below but the list is not exhaustive; the legislation allows consultees to object on any grounds they think relevant:

a. Health and Safety Team

An Officer from the Health and Safety Team will visit all premises for which an application for a new special treatments premises licence is received, to assess whether the applicant is compliant with relevant duties under the Health and Safety at Work etc Act 1974. The officer will consider whether the applicant has taken appropriate steps to ensure that the premises are safe to be used by special treatments practitioners and members of the public; whether heating and ventilation of the premises is sufficient for the proposed use; and whether there are adequate sanitary facilities. In respect of any proposed special treatment, the Officer will assess what steps have been taken by the applicant to ensure that the treatment will be carried out safely and by adequately qualified practitioners; that appropriate record keeping systems are in place; and that measures are in place to ensure the obtaining of pre-treatment informed consent from and the provision of appropriate post-treatment information to the client. Where premises offer high risk treatments, the Officer will also assess the adequacy of arrangements for the safe use of laser and IPL systems, infection control and the safe collection and disposal of sharps and contaminated clinical waste.

b. London Fire Authority

The Fire Authority will check compliance with fire regulations under the Regulatory Reform (Fire Safety) Order 2005.

c. Metropolitan Police Service

Checks will be carried out to ensure that the applicant, practitioners and any others involved in the operation of the premises do not have any relevant criminal conviction and to determine whether the applicant may be considered a fit and proper person to hold the licence

Where unspent convictions are identified, the Council will consider the nature of the conviction and any consequent risk posed to the health, safety and welfare of clients. These factors will determine whether an individual may be permitted on the licence. It may be that where an individual is permitted on the licence in these circumstances, additional conditions and/or restrictions may be attached to the licence.

- 3.11 If a consultee objects to the application, they must notify the Council in writing and explain the reason for it. Objections made outside the statutory 28-day consultation period will not prevent the grant of a licence. The substance of any relevant objections will be forwarded to the applicant, who will be given the opportunity to respond and to provide further documentation in support of their application. Unless the objection relates to the character of the applicant, the Council's Licensing Team may seek to mediate between the parties to see if agreement can be reached.

No Objections

- 3.12 If there are no valid objections received by the end of the 28-day consultation period and the application is otherwise deemed acceptable, the licence will be granted. The applicant will be notified and asked to pay the licence fee. On receipt of the fee, the licence will be prepared and provided as soon as is possible. The licence is granted subject to the standard terms and conditions contained within the London Borough of Barking and Dagenham's Special Treatment Regulations. The Regulations are available on the Council's website and a copy will be provided with the licence on first issue.

Objections Withdrawn

- 3.13 Where an objection received relates to the suitability of the premises, it may be withdrawn if the objector and the applicant can reach agreement in respect of special conditions to be attached to the licence; for example, the stipulation of maximum occupancy for the premises or a treatment room or area. If the objection is withdrawn, at the end of the consultation period and in the absence of any other objections, the licence will be granted. The applicant will be notified and asked to pay the licence fee. On receipt of the fee, the licence will be prepared and provided as soon as is possible. Any special condition(s) will be stated in the licence. The licence is additionally subject to the standard terms and conditions contained within the London Borough of Barking and Dagenham's Special Treatment Regulations.

In all cases, the Council may additionally attach to the licence any further conditions that it considers reasonable or necessary to ensure that the facilities provided at the premises are suitable, and that treatments carried out at the premises do not give rise to risks to health and safety. Special treatments may be offered and provided at the premises in accordance with the licence and the Regulations as soon as the licence is received, and a copy put on display at the premises.

Approval Refused or Granted with Conditions

- 3.14 If the Council determines that an application for a special premises licence does not meet the required standard, it may refuse to grant a licence, or it may grant a licence subject to further or special conditions and/or restrictions. The Council will give notice of its decision to the applicant and any other interested parties as soon as is reasonably possible.

Provisional Grant

- 3.15 Where an application is made to the Council for the grant of a licence in respect of premises which are to be, or are in the course of being, constructed, extended or altered and the Council are satisfied that the premises would, if completed in accordance with the requirements of the Council, be such that they would grant the licence, the Council may grant the licence subject to a condition that it shall be of no effect until confirmed by them.
- 3.16 The Council shall, on application being made for the appropriate variation of the licence, confirm any licence granted if it is satisfied that the premises have been completed in accordance with its requirements.

4. Right of Appeal

- 4.1 An Applicant who is aggrieved by the Council's decision to refuse the grant of a licence, to grant a licence subject to special conditions or restrictions, to revoke a licence, or to refuse the renewal, transfer or variation of a licence may appeal to the Magistrates' Court. The appeal must be commenced within 21 days of the applicant receiving written notification of the Council's decision.

The applicant should appeal in writing to the designated officer for the Magistrates' Court in the area where the premises is situated. This will in most instances be Barkingside Magistrate's Court, who may be contacted by writing to:

Central Administration Centre
Thames Magistrates Court
58 Bow Road
London
E3 4DJ

A fee will be payable to the court when an appeal is lodged. If any applicant wishes to appeal a decision in respect of a special treatments premises licence they are strongly advised to seek legal representation and/or contact the relevant court for further advice. As the respondent to the appeal, the Council will not be able to help with this process.

Where the appeal is against the revocation of or refusal to renew a licence, the licence will remain in force until the determination or abandonment of the appeal. Where the appeal is against the imposition on renewal or variation of conditions or restrictions not previously specified on the licence, the licence shall be deemed to be free of them until determination of the appeal.

The Magistrates' Court may dismiss the appeal, or they may substitute the Council's decision with any other decision that the Council could have made. If the applicant's appeal is unsuccessful, the court may award costs against them, meaning that they would have to pay the Council's costs as well as their own.

Both the applicant and the Council may appeal to the Crown Court against a decision of the Magistrates' Court. Further information may be found on the Courts and Tribunals Judiciary website at: <https://www.judiciary.uk/you-and-the-judiciary/appeals-process/>

5. Conditions

5.1 The Council has the power to attach conditions and restrictions when granting licences. These will generally relate to:

- (a) the maintenance of public order or safety;
- (b) the number of persons who may be allowed to be on the premises at any time;
- (c) the qualifications of the persons giving the special treatment;
- (d) 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;
- (e) the maintenance in safe condition of means of heating the premises;
- (f) the hours of opening and closing the establishment for special treatment;
- (g) the safety of any equipment used in connection with the special treatment and the way in which the treatment is given;
- (h) the cleanliness and hygiene of the premises and equipment;
- (i) the manner in which the establishment is operated and the way it is advertised.

6. Change of Licence Holder (Transfer)

The person or organisation named on an existing licence may be changed. The proposed new licence holder must submit a completed Application to Transfer a Special Treatments Premises form and pay the application fee. A Consent to the Transfer of a Special Treatments Premises form completed by the current licensee should be submitted with the application, but if a consent form is not provided, evidence that reasonable attempts have been made to obtain the consent of the licensee must be

submitted with the application. There is no requirement to display a public notice and the Council will consult only the Metropolitan Police in respect of the application. The police may only raise an objection if they do not consider the applicant to be a fit and proper person to hold the licence.

If any changes to the licence are required other than the name of the licensee and the removal of treatments offered and/or practitioners, an application to vary the licence must be made at the same time.

7. Variation

A licensee may at any time apply for a variation to any term, condition or restriction on or subject to which the licence is held. An application for variation is necessary if there is any proposed addition to the special treatments offered at the premises and/or the practitioners providing special treatments. An application for variation is also necessary if, at a premises where laser and/or IPL treatments are offered, the licensee wishes to introduce new or replacement laser or IPL equipment, even if that equipment is of a type already in use at the premises.

A completed Application to Vary a Special Treatments Premises Licence form must be submitted with the requisite documents, and the application fee paid. Variation applications do not require the display of a public notice but some or all of the statutory consultees may be consulted, dependant on the nature of the variation.

A formal variation is not required for the removal of special treatments and/or practitioners, but the licensee must inform the Council of any such changes and the licence will be amended on the payment of a small administration fee.

8. Change of Premises Name

Licensees are required to notify the Council in writing if the name of the premises for which a licence has been granted is changed. Notification may be sent by post or email and the licence will be amended on the payment of a small administration fee.

9. Change of Details

Licensees are required to notify the Council in writing if there is a change to their legal name or postal address. Details of the change may be sent by post or email and the licence will be amended on the payment of a small administration fee.

10. Powers of Entry

Any duly authorised officer of the Council or of the London Fire Brigade (on production, if so required, of a duly authenticated document showing his or her authorisation) or any constable, may at all reasonable times enter, inspect and examine any premises which are, or which he or she has reasonable cause to believe are:

- (a) used, represented as being used, or intended to be used to provide special treatments without the requisite licence; or
- (b) used in contravention of the terms, conditions or restrictions on or subject to which a special treatments premises licence has been granted;

and may do all things reasonably necessary for ascertaining whether an offence has been committed.

11. Penalties

13.1 Part II of the London Local Authorities Act 1991 provides the following offences, with penalties as indicated:

- (a) any person who intentionally obstructs an officer in the exercise of his or her powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000;
- (b) If any occupier or other person concerned in the conduct or management of premises in the borough uses them as a special treatments premises or represents them as being so used or permits the premises to be so used, he or she shall, unless the premises are currently licensed by the Council, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500;
- (c) If any premises in respect of which a licence is in force are used as special treatments premises otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held, then the holder of the licence or other person concerned in the conduct or management of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

12. Contact Information

Licensing Team

London Borough of Barking and Dagenham
Lower Ground Floor
Barking Town Hall
1 Town Square
Barking
IG11 7LU

Email: licensing@lbbd.gov.uk

Health and Safety Team

London Borough of Barking and Dagenham
Lower Ground Floor
Barking Town Hall
1 Town Square
Barking
IG11 7LU

Email: health&safety@lbbd.gov.uk

Metropolitan Police

Licensing

Romford Police Station
10 Main Road
Romford
RM1 3BJ

Email: eastareabcumailbox-b&dlicensing@met.pnn.police.uk

Phone: 020 8227 5642

London Fire Brigade

Fire Safety Regulation: North East Area 2
169 Union Street
London
SE1 0LL

Email: firesafetyregulationNE@london-fire.gov.uk

Phone: 020 8555 1200 x52100