

If you require further information about this agenda please contact: Bill Lee, e-mail: william.lee@hounslow.gov.uk or by phone on 020 8583 2068.

LICENSING COMMITTEE

A meeting of the Licensing Committee will be held in Committee Room 3, Civic Centre, Lampton Road, Hounslow on Tuesday, 19 April 2011 at 7:30 pm

MEMBERSHIP

Councillor Tom Bruce- Chair

Councillors Mindu Bains, John Cooper, Poonam Dhillon, Bradley Fisher, Pamela Fisher, Matt Harmer, Paul Jabbal, Kamaljit Kaur, Adrian Lee, Liz Mammatt, Shantanu Rajawat, Barbara Reid, Balvir Sond and Peta Vaught.

AGENDA

1. Apologies for absence, declarations of interest or any other communications from Members
2. Minutes of the meeting held on 8 March 2011 **(Pages 1 - 8)**
3. London Local Authorities Act 1991 - Special Treatment Licensing **(Pages 9 - 47)**
4. London Local Authorities Act 1990 (as amended) - Street Trading Policy and Fixed Penalty Notices **(Pages 48 - 78)**
5. Urgent Business

Any business which the Chair agrees to accept on grounds of urgency.

DECLARING INTERESTS

Committee members are reminded that if they have a personal interest in any matter being discussed at the meeting they must declare the interest and if the interest is also a prejudicial interest then they may not take part in any discussion or vote on the matter.

T.WELSH, Director of Legal Services
London Borough of Hounslow, Civic Centre, Lampton Road, Hounslow TW3 4DN

11 April 2011

Agenda Item 2

At a meeting of the Licensing Committee held on Tuesday, 8 March 2011 at 7:15 pm in Committee Room 3, Civic Centre, Lampton Road, Hounslow.

Present:

Councillor Tom Bruce (Chair)

Councillors Mindu Bains, John Cooper, Bradley Fisher, Pamela Fisher, Matt Harmer, Paul Jabbal, Adrian Lee, Liz Mammatt, Shantanu Rajawat, Barbara Reid and Balvir Sond.

Officers: Caroline Eaton and Gary O'Shea.

32. Apologies for absence, declarations of interest or any other communications from Members

Councillor Barbara Reid apologised for her late arrival, having attended part of the Executive meeting.

33. Minutes of the meeting held on 23 November 2010

The minutes of the meeting of were agreed as a true and accurate record subject to the following amendments:

Page 5, paragraph 5: "Obligation to refuse" should read "Council's policy to refuse"

Page 7, paragraph 3: "Licensing Act" should read "Council's statement of licensing policy"

Page 7, paragraph 4: "213 August" should read "13 September"

Page 7, paragraph 8: From 1 April 2011 all licences will appear on the website for 1 month, and be archived for 6 months.

Page 8, paragraph 2: delete "thereby creating more of a problem than it solved" and replace with "which may present a problem as there would be no right of objection, but there is no way of gauging that at the moment."

Page 8, last paragraph: "within 50 metres" should read "in the vicinity"

34. Sex Entertainment Venue Licensing - Local Government (Miscellaneous Provisions) Act 1982

See the report of the Director of Environment (Agenda Item 3)

Councillor Ed Mayne, Executive Member for Community Safety and Enforcement, was present at the meeting.

Trading Standards and Licensing Manager Gary O'Shea presented the report, reminding the Committee that the deadline for adoption of the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) in relation to the licensing of Sexual Entertainment Venues (SEVs) was 6 April 2011.

Councillor Barbara Reid arrived at 7.35pm.

The Chair, Councillor Tom Bruce, stated that this issue had been debated and voted on by the Licensing Committee in September 2010, and reassessed in November 2010, for presentation at the Borough Council meeting in February 2011. Since the original discussion, however, events had moved on, including the opening of an SEV in Hounslow, and Councillor Bruce advised that withdrawing the matter from the recent Borough Council meeting and bringing it back for further discussion by the Licensing Committee had been the most sensible decision.

Councillor Adrian Lee stated that the Committee had originally voted against adoption of the Act on the grounds that whilst it would enable greater regulation of SEVs, it would mean that licensed premises could hold adult entertainment events up to 11 times a year without further permission. Under existing legislation, however, the Council would be able to prevent pubs and clubs from holding these events, but was less able to control the licensing of SEVs.

Gary O'Shea confirmed that the exception under the 1982 Act would allow licensed premises to host events such as lap-dancing or pole-dancing up to 11 times per year, provided that the events were more than one month apart. He emphasised that there was no way of knowing how many, if any, premises would stage such entertainment, and pointed out that under the current licensing legislation any licensed premises could apply for a Temporary Event Notice (TEN) and hold such events, but that none had.

Mr O'Shea advised the Committee that other West London Councils had adopted the 1982 Act, and that Hammersmith and Fulham had claimed that licensees would still need to apply for a TEN to make use of the exceptions. He stated that he did not believe this to be the case, and that legal advice from Hammersmith had subsequently confirmed that the application for a TEN was to cover the Erotica exhibition. He added that whilst a licence was necessary for alcohol sales, music, and dancing, the sexual entertainment element would not be covered.

As the 1982 Act allows for an Authority to control the number of SEVs, Councillor Lee asked if it would be possible to allow none at all. Gary O'Shea replied that it could, but as the law did not permit moral objections, such a stance would have to be very strongly backed up. It would be possible however, to have a zero SEV policy in certain areas, ie within a certain radius of schools, or within residential areas. Councillor Lee asked if this meant that SEVs could potentially be confined solely to industrial estates, and Mr O'Shea confirmed that it did.

Councillor John Cooper said that he thought it unlikely that any pubs would use the exceptions, but that clubs might, and asked if it would be possible to add a clause to licences to prevent this.

Gary O'Shea replied that it would not, because under the 1982 Act adult entertainment exceptions did not require a licence, and that blanket conditions could not be imposed on licences. Caroline Eaton, Legal Adviser to the Committee, agreed, adding that conditions could only be changed anyway if a fresh application came before a Licensing Panel.

Councillor Cooper asked if, given that the 1982 Act allowed for a zero SEV policy near schools, it might be possible to impose a similar condition on licences of premises near to schools banning the hosting of adult entertainment using the exceptions, and Gary replied that it would not.

Referring to Mr O'Shea's earlier statement that under the terms of the existing policy any licensee could apply for a TEN and host a sexual entertainment event, Councillor Bradley Fisher asked how many had actually done so. None had, and Councillor Fisher asked if Mr O'Shea thought it likely that there would be a glut of applications if the 1982 Act were adopted. Gary O'Shea replied that it was not, while stressing that his duty was to mention foreseeable consequences of adopting or not adopting the 1982 Act, not to lead the Committee's decision.

He added that it had not been pointed out that it was possible to apply for a TEN under the current policy, but that the ability to host 11 events per year under the 1982 Act would be widely known.

Asked by Councillor Fisher to confirm that it would be possible for the Authority to designate certain areas that SEVs would be restricted to, Mr O'Shea advised the Committee that as well as restricting SEVs geographically, maximum numbers could also be imposed.

Councillor Matt Harmer asked for the police's view, and Councillor Pamela Fisher asked Councillor Ed Mayne for the outcome of his discussion of the matter with the Police Borough Commander.

Councillor Mayne thanked the Chair for permission to address the meeting, and advised the Committee that the Borough Commander had recommended adoption of the 1982 Act, stating that in his view the exceptions would be manageable. He added that the Commander did not support a blanket ban.

Councillor Pam Fisher asked the Council's policy prior to adoption of the 2003 Licensing Act; Gary O'Shea replied that SEVs had been permissible.

Asked by Councillor Harmer if the Committee could make a decision, Caroline Eaton advised that they were there to make a recommendation to the Borough Council.

Councillor Harmer asked if it would be possible to "un-adopt" the 1982 Act if it was later seen as a wrong decision, and Ms Eaton said that it would not. The Chair said that that had been one of the reasons the Committee had originally decided to recommend that the Borough Council did not adopt, but should consult and then wait and see the outcome in boroughs that did adopt.

Councillor Paul Jabbal asked if the Act could be adopted at a later date, and Ms Eaton replied that it could.

Councillor Cooper said that a decision not to adopt would mean a consultation would have to be conducted, and that the outcome of that exercise could be predicted. He asked if it would be possible to go against the consultation's result. Gary O'Shea replied that it would, but that it would defeat the purpose of holding the consultation. The Chair stated that a predictable result was no reason not to carry out a consultation.

Councillor Mindu Bains said that SEVs were businesses, operating according to supply and demand, and asked if any steps had been taken to ascertain demand. Gary O'Shea responded that supply and demand was not a valid reason to either grant or refuse a licence, pointing out that an objection to an alcohol licence, for example, on the grounds that it might affect the respondent's business, was not a valid representation.

Councillor Bains referred to Mist, the SEV recently opened in the Borough, and asked if it showed that there was a demand for such establishments. Mr O'Shea replied that the owner of Mist was planning to change the nature of the business, giving his reason as anticipation that the Council would adopt the 1982 Act, and subsequently not renew his licence. Mr O'Shea did not know whether the premises were currently profitable.

Councillor Cooper stated that he could not think of anywhere in the Borough that he believed to be a suitable location for SEVs.

Councillor Liz Mammatt referred to the requirement to advertise applications at the premises

and in a local newspaper for 28 days, and asked if letters would also be sent to inform Councillors in neighbouring wards of any SEV applications. Gary O'Shea advised her that the conditions set out were statutory requirements, and that the Council could add any of their own. Councillor Mammatt asked if these conditions could specify exactly where SEVs could go, to which Mr O'Shea replied that a policy had not yet been drawn up, but would probably be fairly general in its terms. He added that whatever the policy, each application would have to be looked at on its own merits.

Councillor Cooper asked if applications would come before the Licensing Panel even if no objections had been received. Gary O'Shea replied that they would if the 1982 Act were to be adopted.

Councillor Fisher asked if there had been any legal challenges to the wording of policies now that most London Boroughs had adopted, and Mr O'Shea replied that he knew of none, but that challenges were most likely to be mounted on fees, which tended to be very high.

Councillor Adrian Lee said that it would be impossible to realistically judge demand until a business was running. He stated that he was concerned about the fact that the 1982 Act was irreversible, particularly as pubs were closing in such numbers. He said that it was not possible for all pubs to become gastropubs, or family friendly, and he wondered if there was any indication that some pubs may use the exceptions to attempt to save the business. Gary O'Shea replied that there was no evidence so far.

Councillor Lee asked why the 1982 Act was irreversible, and Mr O'Shea stated that the Act stemmed from lobbying by the Fawcett Society and others who wanted SEVs removed from the then current Licensing Act. The Government compromised by making the Act adoptable, with the exceptions, as they felt that the decision should be made locally, and that the exceptions would not be a problem.

Councillor Mayne told the Committee that his research into the Act had included contacting a Labour MP who had lobbied strongly for the Act, and who wanted a review of TENs, and other issues. He had asked the MP if she still supported adoption, and she had said that she did.

Councillor Cooper said that he did not believe that an ailing pub could be saved by hosting 11 adult entertainments per year, and asked if it was likely that SEVs would move westwards into Hounslow now that other Boroughs, including Westminster, had adopted the Act.

Gary O'Shea advised that adoption did not mean that clubs would be closed and thereby driven out of boroughs, and Councillor Harmer added that Westminster had adopted not to close the clubs, but to confine them to certain parts of the City.

Councillor Harmer moved that the Committee recommends that the provisions of the Local Government (Miscellaneous Provisions) Act 1982 in relation to the licensing of Sexual Entertainment Venues be adopted by the Council.

Councillor Cooper seconded the motion.

Councillor Barbara Reid stated that she would abstain, having missed the beginning of the debate.

The motion was carried unanimously by the rest of the Licensing committee.

Resolved: That the Licensing Committee recommends that the provisions of the Local Government (Miscellaneous Provisions) Act 1982 in relation to the licensing of Sexual

Entertainment Venues be adopted by the Council.

35. London Local Authorities Act 1991 - Special Treatment Licensing

The report will be presented at the next meeting of the Licensing Committee.

36. London Local Authorities Act 1990 - Street Trading Licensing

See the report of the Director of Environment (Agenda Item 5)

Trading Standards and Licensing Manager Gary O'Shea presented the report, and advised the Committee that alterations could be made prior to carrying out the consultation with affected bodies.

Councillor John Cooper asked for clarification regarding fixed penalties. He gave as an example a shop whose pavement display was always larger than that permitted in its Street Trading Licence, and asked if the owner could be fined again every day that the licence conditions were contravened. Gary O'Shea advised that it was possible, but that the Council would levy a fixed penalty on one or two occasions, and then take the owner to court if he continued to offend. He added that if the owner were to refuse to pay, or paid the fine but continued to ignore the terms of his licence, then a court may levy a higher fine.

Councillor Matthew Harmer asked who set the level of fixed penalties, and on what basis.

Gary O'Shea replied that he had set them, based on the principle of cost recovery.

Councillor Harmer stated that he did not believe the penalties to be high enough to deter traders who perhaps felt that there was a business advantage to be gained from contravening the terms of their licences, and Mr O'Shea agreed that they could be increased. Councillor Harmer moved to increase the levels. Gary O'Shea advised caution, as he believed that if set too high, the penalties may result in offenders refusing to pay and going to court, where cases could be hard to prove.

Councillor Bradley Fisher suggested an increase from £150 to £200. Gary O'Shea stated that the Borough had a high level of infringement, and agreed that it would be possible to double the given penalties.

The Chair, Councillor Tom Bruce, called for a vote on doubling the penalties set out in Appendix A, page 87 of the Agenda.

The vote was carried unanimously.

Councillor Barbara Reid asked if the entire policy would be brought back before the Licensing Committee following the consultation.

Gary O'Shea replied that it would, and that he would supply the Committee with all comments made.

Councillor Reid asked for clarification of the number of licensed pitches, and Gary O'Shea confirmed that there were 15 designated sites where street trading was permitted from a stall, barrow, trailer, or similar within the Borough under the terms of a Permanent Street Trading

Licence, and that there were currently 31 temporary stalls outside these designated “Licence Streets”.

Councillor Bradley Fisher stated that at the previous meeting the Committee had been advised that a list of stalls trading in Hounslow High Street would be provided. He asked if it would be possible to limit their number.

Gary O’Shea replied that that was the idea of the new policy, and that it would be possible to limit the numbers of a given type of stall if the policy was adopted.

Councillor Fisher asked how many prosecutions had been carried out against unlicensed traders, or those in breach of licensing conditions. Mr O’Shea replied that there was a prosecution underway for a Special Treatment Licence breach, but there had been no others, as the Council was waiting for fixed penalty notices to become available.

Councillor Lee raised an issue with regard to an establishment that had roped off an area of pavement outside as a smoking area. There were no tables or chairs there, nor did the premises have a Pavement Café Licence, and the Councillor asked how this might be regulated. Having ascertained that the roped off area was part of the public highway, Caroline Eaton, Legal Adviser, informed the Committee that this was an obstruction of the highway, and was not covered by Licensing, but by the Highways Act 1980. She said that she would speak to an officer from the relevant department.

Councillor Cooper asked if a Street Trading Licence was needed if a stall was on private land. Gary O’Shea replied that it would need a licence if it was on the highway, which can be the case even on private land, if the public have access by fact. Referring to a particular square in Feltham, Councillor Cooper said that there was room to set up a market in theory. Caroline Eaton advised that stalls in that location would not constitute an obstruction, but would require Street Trading Licences.

Councillor Pamela Fisher asked if a maximum number of a particular type of stall could be imposed on given areas. She added that information would be needed on the numbers and details of licences in each area, including renewal applications, and stated that there were possible difficulties when applicants didn’t attend Panel meetings.

Gary O’Shea replied that current policy now required applicants to attend. Additionally all applicants were to submit plans to show the location of the stall, and what other vendors were in the vicinity. This would stop many people from making applications that duplicated existing traders’ activities.

Councillor Liz Mammatt asked if the Council could spell out in the licences which offences may result in the seizure of goods. Mr O’Shea replied that Licensing and Trading Standards worked closely together to enforce a variety of legislation, and did advise licence holders about applicable laws. He stated that goods would not be seized in an instance of genuine error, but would, for example, if goods were found to be counterfeit; this was not spelled out on licences, but was covered by the advice given. Caroline Eaton advised that goods were seized under powers granted by trading standards legislation, not licensing.

Referring to paragraph 4.5, page 72 of the agenda, Councillor Mammatt asked if details inviting applications would only be published on the Council’s website. Gary O’Shea informed the Committee that this only applied to the 15 designated areas for permanent pitches, which needed to be made clear. Availability would be advertised on the pitch itself as well as the website.

Councillor Mammatt stated that she was unhappy with the wording of paragraph 5.3 (e) “The demand for the articles for sale”, saying that it was not for the Council to make such commercial judgements. Mr O’Shea responded that this was intended to stop duplication, and that although preference would be given to a unique stall, the clause was not intended to prevent anyone from trading.

Councillor Mammatt pointed out that paragraph 33.2 (page 86) forbade the sale of offensive weapons, but did not mention knives. Gary O’Shea said that there was no power to prevent the sale of legal items such as knives, but that Trading Standards would carry out test purchases, for example to prevent the sale of knives to underage children. Councillor Mammatt asked if the Council could advise on this issue, and Mr O’Shea said that a policy pack would be given to all traders.

Referring to the need for washing facilities to be available at food stalls, Councillor Mammatt asked about toilet facilities for street traders. Gary O’Shea advised that as stalls could not provide toilets, there were no rules, and Trading Standards only checked that traders were using proper facilities.

Councillor Lee said that some stalls, such as those in Essex Place, were virtually small shops, and asked where traders went. Mr O’Shea said that he didn’t know, as the Council was only able to impose conditions on major temporary events to provide a minimum number of toilets, not on market stalls. He pointed out that food traders had to be registered with Food Safety, and offered to discover more and report back to the Committee at the next meeting.

Councillor Shantanu Rajawat referred to paragraph 6.0, page 75, Special Events. He agreed that it was right to encourage events such as Farmers’ Markets, but expressed concern that existing traders were not pushed out at such times. Gary O’Shea agreed, stressing that this provision was purely for one-off events such as Farmers’ Markets, Christmas Markets, etc, which had been difficult to organise in the past, but would be much easier under the new proposals.

Councillor John Cooper proposed that the Licensing Panel agree the new policy in principle, subject to consultation.

Councillor Paul Jabbal seconded the motion.

The Committee voted in favour unanimously.

Resolved: Members unanimously agreed the new policy in principle, subject to consultation; and decided that the level of penalty charges payable under Fixed Penalty Notices suggested in Appendix A be doubled.

37. Urgent Business

Councillor Bradley Fisher referred to a premises that regularly flouted the terms of its licence and which contravened its planning conditions. Stating that Temporary Event Notices (TENS) were often issued despite this, Councillor Fisher asked if it would be possible to add planning conditions to a licence.

Gary O’Shea replied that the Licensing Authority had no power in law to enforce planning breaches, as the legislation was clear that licensing and planning are separate issues. He added that the enforcement of planning regulations was entirely a matter for the Planning Department.

The Chair asked why the premises in question had been issued more than 12 TENs in one year, and Mr O'Shea advised the Committee that this matter had been put to the Scrutiny Committee. The licensee had applied for more than 12 TENs on the grounds that the premises' upstairs and downstairs rooms were separate establishments. Mr O'Shea did not agree, but having consulted with other authorities, had given the premises the benefit of the doubt, and classed the two floors as two separate establishments for the purpose of issuing TENs. Gary O'Shea then informed the Committee that he had since reconsidered, and looked at Parliament's intentions when the legislation was passed. As a result, it was now decided that the premises were a single establishment as only one licence had been issued; therefore there would henceforth be a maximum of 12 TENs per year.

Councillor Bradley Fisher asked if he could call for a review of a premises licence if a resident informed him that the premises were a source of problems. Mr O'Shea confirmed that he could, and Councillor Fisher asked how many Councillors knew this, or how to go about it. On hearing that it was likely few Councillors had such knowledge, Councillor Fisher asked if training could be provided; Mr O'Shea advised the Committee that guidance notes could be produced and made available.

Gary O'Shea informed the Committee that the law was tightening up with regard to TENs, and was introducing the question of noise pollution, and also reducing the days and circumstances that people may apply. He added that this would take time, but that the legislation would eventually change.

Caroline Eaton advised that guidance notes would be published on the website to explain any such changes.

The meeting finished at 8.50pm.

The minute taker at this meeting was Bill Lee

Contact: Gary O'Shea
Tel: 020 8583 5144
E-Mail: gary.o'shea@Hounslow.gov.uk

LICENSING COMMITTEE – 19 April 2011

LONDON LOCAL AUTHORITIES ACT 1991 – SPECIAL TREATMENT LICENSING

Report by: DIRECTOR OF ENVIRONMENT

Summary

The purpose of this report is to seek approval for a new Code of Practice for laser and Intense Light treatments alongside a revision to the standard conditions in respect of premises that offer Special Treatments within the Borough.

1.0 Recommendations

1.1 Members are requested to agree the codes of practice, conditions and exemptions to take effect immediately.

2.0 Introduction

2.1 Special Treatment is a term covering a number of different activities, the main ones being, laser treatments, tattooing, body piercing, massage, manicure, pedicure, sauna, facial and various beauty treatments.

2.2 The licensing of premises that offer Special Treatments has been administered in this Borough since adoption of the London Local Authorities Act 1991 (the Act) soon after it came into force. The provisions of the legislation in relation to administering applications have been fully delegated to the Director of Environment. However, Policy and Conditions must be determined by the Council, with this responsibility having been delegated to the Licensing Committee.

2.3 Section 10 of the London Local Authorities Act 1991 provides a legislative framework for the local authority to make 'licence conditions' to control premises offering 'Special Treatments' in the Borough.

2.4 Section 6 of the Act provides that a Borough Council may impose appropriate terms and conditions, which may relate to such matters as; maintenance of public order and safety, the number of persons permitted on the premises at any one time, a requirement for qualifications for therapists, precautions in relation to fire, lighting, sanitation and ventilation, adequate means of heating the premises, hours of opening, safety of equipment, cleanliness and hygiene of the premises and the manner in which the establishment is operated and advertised.

3.0 Background

- 3.1 Standard Conditions are attached to licences in respect of premises that offer a variety of special treatments. These conditions have been in place for some time and whilst still effective, they are in need of updating due to the availability of new types and styles of treatments, such as laser and Intense Light treatments.
- 3.2 Concerns have arisen over the conduct of some premises where complaints have been received in relation to treatments that in some cases are alleged to have not been administered properly. Such matters may have a serious impact on public health and wellbeing and appropriate measures need to be in place to ensure the proper conduct of licensed premises. This will avoid the potential for extremely dangerous practices that in some cases could give rise to infection or injury. Amongst the more serious conditions that the public need protecting against are hepatitis and HIV.
- 3.3 Due to the recent acquisition of responsibility for laser licensing and updated guidance from the Health Protection Agency and London Special Treatment Group (a London wide body of local authority licensing professionals organised to develop practices and procedures and to promote best practice and consistency between Boroughs), it is necessary to adopt a code of practice and update the existing Standard Conditions for places offering Special Treatments.
- 3.4 Non surgical lasers/intense pulse light systems (IPLS) used for hair removal have been classified as a 'Special Treatment' since the 1991 Act was adopted, however until recently this has been regulated by the Care Quality Commission (CQC) under the Registered Homes Act 1984. However from the 1 October 2010 there is no longer any requirement for registration of surgical lasers /IPLS with the CQC when used for non surgical treatments. In view of this the responsibility for the licensing of such premises now falls to the Licensing Authority.
- 3.5 Proposed conditions have been added to the current standard conditions outlining the requirements in line with the standards used by the CQC under the old registration scheme and the codes of practice have been developed to illustrate best practice in line with agreed procedures from both the CQC and the London Special Treatment Group. The Council will now require persons providing such treatments to hold a licence with the Council.
- 3.6 Fees should be set on a cost recovery basis, but may take into account a number of factors including the cost of processing applications, pre licensing inspections, enforcement of the terms and conditions of licences and enforcement in relation to identifying any practice that may be operating otherwise than in accordance with a licence issued by this authority. This year's fees were presented to Borough Council on 1 March 2011 as part of the budget process for 2011/12.
- 3.7 An exemption for the need to hold a licence can apply to anyone who is state-registered; this includes Osteopaths, Physiotherapists, Chiropractors, etc. It is however, sometimes difficult to establish whether an exemption applies and as such the London Special Treatment Group has devised a list of bodies that may be granted exemption. There is no requirement that the exemption should be permitted, however, members of such bodies are professionally qualified and as such any requirement to insist that they obtain a Special Treatment Licence could be considered to be unnecessary and disproportionate.

4.0 Proposals

- 4.1 Standard conditions apply in all cases and have been updated in line with the Code of Practice; it is proposed that these should be adopted with immediate effect.

The proposed conditions are attached as appendix **A**.

4.2 The Codes of Practice for laser and intense light treatments have been developed in conjunction with other London authorities and are considered to represent best practice.

The Codes of Practice are attached as appendix **B**.

4.3 Some practices (as highlighted in 3.7) do not require a Special Treatment licence. At present there is no established process for recording such premises, other than an assessment on information supplied by a business as to whether exempt status should apply. The London Special Treatment Group has identified those bodies whose members are considered appropriate to benefit from the exemption and it is proposed that only those on this list, as may be updated by the group from time to time, should be permitted to operate under exempt status. In all other cases a licence would be required.

The list of exempt bodies is attached as appendix **C**.

4.4 It is further proposed that in order to maintain accurate records of all businesses in the borough that even those qualifying for exemption should complete an application form. This will record the details of the premises, the treatments to be offered and the exemption under which they qualify. It is intended that they will also be required to provide proof as to their status. There would be no charge for an exemption application.

5.0 Legal Implications

5.1 Any decision of any authority in respect of policy, conditions or fees would always be open to Judicial Review.

6.0 Comments of the Director of Finance

6.1 The Director of Finance comments that any consultation costs, which are predominantly staffing and advertising costs, will be met from the current revenue budget.

7.0 Comments from the borough Solicitor

7.1 The Borough Solicitor has been consulted in the drafting of this report and his comments have been included.

Background Papers:
e-mails
List of Appendices:
Appendix A – Proposed Conditions
Appendix B – Codes of Practice for Laser and Intense Light Treatments
Appendix C – List of Exempt Bodies
This report has been or is due to be considered by:
Licensing Committee
This report is relevant to the following wards/areas:
All



**London Borough
of Hounslow**

STANDARD LICENSING CONDITIONS FOR PREMISES OFFERING SPECIAL TREATMENTS

**STANDARD CONDITIONS IN FORCE FROM 1 April 2011 FOR
PREMISES OFFERING SPECIAL TREATMENTS LICENSED BY
THE LONDON BOROUGH OF HOUNSLOW**

Standard Conditions For Premises Offering Special Treatments

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STANDARD CONDITIONS FOR PREMISES OFFERING SPECIAL TREATMENT

Revised conditions for premises licensed by the London Borough of Hounslow in force from January 1st 2005.

INTRODUCTION

These Standard Conditions are applicable to all premises offering Special Treatments. Their application does not in any way however, 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 which may be applicable to these premises.

Part 1 - GENERAL

Definitions

1) In these rules, unless the context otherwise requires:

Act means Part II of the London Local Authorities Act 1991 (as amended).

Approval of the Council or Consent of the Council means the written approval or consent of the Council as Licensing Authority in writing.

Approved, Accepted or Permitted means approved, accepted or permitted by the Council in writing.

Council means the London Borough of Hounslow.

Special Treatment means nail treatments, massage, electric treatments, light treatments, water treatments, skin piercing, tattooing and other treatments of a like kind.

Establishment for Special Treatment has the meaning set out in section 4 of the London Local Authorities Act 1991 (as amended).

Fire Authority means the Chief Officer and Chief Executive of the London Fire and Emergency Planning Authority.

Licence Holder/Authorised Person means a person who is responsible for compliance with the standard conditions at all times that the premises are open for business.

Licence means a special treatment licence granted under section 6 of the London Local Authorities Act 1991 (as amended).

Premises means any premise within the Council's area licensed for special treatments and includes all installations, fittings etc.

Operative – the person carrying out the special treatment and, for tattooing and body piercing premises, is an approved operative as named on the licence.

Authorised Officer means an Officer appointed by the Council.

Dispensation or Modification of Rules

- 2) (a) These rules may be dispensed with or modified by the Council in any special case.
- (b) In accordance with the provision of paragraph 10 of the London Local Authorities Act 1991, the Council may, in granting a licence or giving any written approval or consent under these rules, impose such terms, conditions, or restrictions as it shall specify in writing.
- (c) If the licensee wishes any licence terms, conditions or restrictions to be varied, an application must be made to the Council, and if the Council so requires, the application must be advertised.

PART II - Conditions applicable to all premises

1) The Licence

- a) The current licence or a clear copy shall at all times be prominently exhibited at the premises in a position where it can easily be read by patrons.
- b) The licence is personal to its holder. The licence cannot be transferred to any other person unless the procedure prescribed in the Act has been followed, and the Council has granted the application.
- c) The licence is only valid in respect of the premises named on the licence.
- d) Licences are granted for a maximum period of twelve months.
- e) A licence will be issued in the name of the applicant and, for the purposes specified in Condition 2(e).

2) Responsibility of the Licence Holder/Authorised Person

- a) May authorise a responsible person to be in charge of the premises during opening hours.
- b) Shall take all reasonable precautions for the safety of all persons using the premises and ensure compliance at all times with the relevant provisions of the Health and Safety at Work etc Act 1974, and other associated legislation.

- c) Shall be in charge of the premises at all times.
- d) Shall take out employer's liability (where applicable) and public liability insurance cover to the minimum value of £2,000,000
- e) Shall ensure that all operatives carrying out 'special treatments' are suitably trained/qualified and evidence of such shall be submitted to the Council for approval.
- f) For tattooing and body piercing premises the Council shall list the names of all operatives on the licence following their approval. Trainee/Apprentices shall appear on the licence named as such.

No other persons other than those named on the licence are permitted to carry out body piercings or tattooing.

- g) Shall ensure that no nuisance arises from the business, e.g. odours, noise etc.
- h) Shall ensure that at least one operative present in the premises on a day to day basis carrying out special treatments is required to have an understanding of spoken and written English in order to satisfactorily discuss client records and aftercare advice.
- i) Shall be responsible for maintaining a fire risk assessment to include proper precautions against fire, the maintenance and proper order of means of escape in case of fire, and the means of fighting fire at the premises.
- j) Shall clearly display a tariff of all special treatments provided.
- k) Suitable heating, lighting and ventilation are required in all areas of the premises and this shall be maintained in a suitable and safe conditions.
- l) An accessible wash hand basin shall be fitted within the treatment area and provided with hot and cold running water, preferably by mixer taps and non-hand operated taps. Sanitising soap dispensary and disposable paper towels shall provided.
- m) A suitable equipped first aid kit shall be readily accessible at the premises.
- n) Supply of drinking water shall be provided for public use, close to the treatment areas.

3) Charge of Licensed Premises

- a) The licence holder/authorised person shall be familiar with all the conditions contained in this document and take responsibility for any breaches of said conditions.

4) Conduct of the Premises

- a) No poster, advertisement etc shall be displayed which is unsuitable for general exhibition.
- b) The licence holder/authorised person shall ensure that no part of the premises is used by persons, for soliciting or other immoral purposes.

5) People with Disabilities

It is the policy of the Council that access for disabled people should be provided at business premises licensed for special treatment. Licensees are, therefore strongly encouraged to provide such facilities so as to enable the admission of disabled people and are reminded of the duties imposed by the Equalities Act 2010.

6) Authorised Officers

Authorised officers, on presentation of their written authorisations and proof of identity shall be admitted at all reasonable times to all parts of the premises.

7) Electricity

- a) The licensee shall ensure that all portable electrical appliances used within the licensed premises are maintained regularly in accordance with the Electricity at Work Regulations 1989. Records of this maintenance must be available at the premises at the time of the inspection or must be forwarded to the Council.
- b) The licensee shall ensure that the fixed electrical installation is inspected by a competent electrical engineer in accordance with the Electricity at Work Regulations 1989 and a copy of the current certificate is available at the premises at the time of the inspection or must be forwarded to the Council.

8) Personal Hygiene

Any person carrying out any special treatment must ensure that:

- a) any open boil, sore, cut or other open wound is effectively covered by an impermeable dressing;
- b) hands are kept clean and are washed immediately prior to carrying out any treatment; and
- c) they refrain from consuming food and drink during the course of the treatment.

9) Refuse

Under the Controlled Waste Regulations 1992 and the Environmental Protection Act 1990 operatives/licence holders have a duty of care to ensure that all clinical waste i.e. used dressings, swabs etc (infected or not) and used needles are collected and disposed of by a licensed contractor. A waste transfer document shall be available at the premises for inspection.

The clinical waste bags shall be yellow and marked as 'Biohazard – clinical waste' and whilst awaiting collection should be stored in a secure area.

10) Record Keeping

All licensed premises will be required to keep records to including name, address, age, date & type of treatment received and shall be required to keep such records for all treatments of category B or higher (all treatments other than manicure, pedicure, ear and nose piercing), for a period of at least 3 years. For all category A treatments records should be kept for a period of 12 months.

Any contra-indications e.g. Heart conditions, diabetes, epilepsy etc for each treatment will be discussed with the client prior to any treatment, and the client shall sign a record card to say that they have been made aware of the risks involved. This must also be kept on file for a period of 3 years.

11) Maintenance

All systems i.e. fire safety equipment, boilers; etc provided in the premises shall be maintained/serviced regularly by competent persons and records available on site for inspection.

All equipment used in connection with special treatments shall be serviced/maintained in accordance with the manufacturers/suppliers recommendation, and records kept.

Bench top sterilisers shall be calibrated and maintained in accordance with the Manufacturers recommendations and records available on site.

12) Training

All persons carrying out special treatments shall have received suitable training in the treatments being undertaken and also use of any relevant equipment. Written evidence of all training shall be available on the premises for inspection.

13) Anaesthetic

Administration of local anaesthetic injections other than by medically qualified practitioners is an offence.

Under the Medicines Act 1968, local anaesthetic creams, sprays, gels etc. are prescription only medicines and pharmacy medicines which may only be sold

by pharmacists for medical application on the patient only. Their use prior to a body piercing is therefore an offence.

14) Control of Substances Hazardous to Health Regulations 2002

Substances which fall under the above Regulations e.g. Barbicide, bleach, nail monomers etc shall be assessed in accordance with the requirements of those Regulations and all the necessary precautions taken to ensure their safe use and storage.

15) Aftercare

Each client shall be provided with written aftercare advice for each treatment they receive, and confirmation of this should be recorded on their client record card.

PART III - Additional conditions for specific treatments

1) Sauna

- a) No persons under the age of 16 shall be permitted to use the sauna.
- b) A thermometer shall be provided indicating the temperature inside the sauna.
- c) An emergency button shall be provided on the sauna, which is connected to a reception or other staffed area.
- d) A clock or timer shall be visible to users, from inside the sauna.
- e) The temperature control device shall not be accessible to users of the sauna.
- f) The hot coals in the sauna shall be protected by a guard rail or barrier.
- g) Shower facilities shall be provided close to the sauna.
- h) A supply of fresh drinking water shall be available close to the sauna.
- i) Safety guidelines on the use of the sauna shall be displayed nearby.

2) Heated Spa Baths

- a) Children under 15 are prohibited from a spa bath.
- b) The spa water shall be suitably treated to prevent the growth of legionella bacteria by means of automatic dosing equipment in accordance with the Approved Code of Practice L8 entitled 'Control of Legionella Bacteria in Water Systems' produced by the Health and Safety Executive.

- c) Water tests shall be carried out at 4 hourly intervals to ascertain the chlorine, pH etc levels of the water. Written records of the results shall be kept on the premises.
- d) The spa shall be fitted with an automatic close down device, which operates approx every 15 minutes for a period of 5 minutes.
- e) Safety guidelines on the use of the spa shall be displayed nearby.
- f) An emergency button shall be provided on the spa, which is connected to a reception or other staffed area.
- g) Shower facilities shall be provided close to the spa.
- h) A supply of fresh drinking water shall be available close to the spa.

3) Flootation Tank

- a) Shower facilities shall be provided close by the equipment.
- b) A supply of fresh drinking water shall be provided near to the equipment.
- c) The water shall be filtered and purified between clients.

4) Ultra Violet Tanning Equipment

- a) No persons under the age of 16 shall be permitted to use tanning equipment.
- b) Prior to the use of tanning equipment a record card shall be completed & signed by the user to acknowledge that they have been made aware of and understand the contra-indications associated with ultra violet radiation, particularly with regard to drugs and medical conditions. A record of the frequency of visits shall also be recorded.
- c) The length of time that a client uses the tanning equipment shall be controlled by the management and based on the user type of skin, power of the sunbed, and age of the tubes etc.
- d) Users of tanning equipment shall have access to an emergency assistance device, which is connected to the reception area.
- e) Each tanning unit shall be fitted with an emergency stop button, which is connected to a reception or other staffed area.
- f) All users shall be provided with protective eye equipment free of charge.
- g) Arrangements shall be made to ensure that the tanning equipment is cleaned between clients.

- h) HSE guidelines IND (G) 209 on UV tanning shall be displayed in each tanning cubicle, copies of this document can be obtained from HSE Website
- i) Regular maintenance shall be carried out, to include replacement of tubes. Records of all maintenance visits shall be available at the premises at all times.
- j) The HSE recommend a maximum of 20 ultra violet tanning sessions per year, clients shall be advised when they have reached this number and made aware of this recommendation. If the client still wishes to continue with further exposure then their written consent shall be recorded on their client record card.

5) Tattooing

- a) No tattoo shall be carried out on a client who has not reached their 18th Birthday in accordance with the Tattooing of Minors Act 1969.
- b) A tattoo may only be performed by an approved person who is named on the licence, in accordance with Part II 2 (e) of these conditions.
- c) All walls, floors, surfaces, seating etc shall be made of washable material.
- d) Prior to treatment **every** client shall read and sign a consent form, which contains details of medical history, name, address, age etc. Photographic proof of age may be requested and details should be entered onto the consent form.
- e) An example of consent form is attached in Appendix B. These forms shall be kept on the licensed premises for a period of at least 3 years, and be available for inspection at all times.
- f) Under the Controlled Waste Regulations 1992 and the Environmental Protection Act 1990 operatives/licence holders have a duty of care to ensure that all clinical waste i.e. used dressings, swabs etc (infected or not) and used needles are collected and disposed of by a licensed contractor. A waste transfer document shall be available at the premises for inspection.

The clinical waste bags shall be yellow and marked as 'Biohazard – clinical waste' and whilst awaiting collection should be stored in a secure area.

- g) Sharps containers shall comply with the British Standard BS7320 and UN3291 and carry the 'kitemark'. Sharps containers should be sited above floor level and below shoulder level.
- h) An accessible wash hand basin should be fitted within the operating area provided with hot and cold running water, preferably by mixer taps. Liquid soap and a paper towel dispenser should also be fitted in this area.

- i) In addition to the wash hand basin, a deep sink with hot and cold running water should be provided exclusively for washing used equipment, this should be fitted in a separate 'dirty' area away from the clean operating area.
- j) Used instruments should be manually cleaned in the sink before undergoing the ultrasonic process, cleaning should occur below water level rather than under running water. Staff should wear suitable aprons etc during this process if there is a risk of splashing.
- k) Following the manual cleaning the instruments should be put through a cycle in the ultrasonic cleaner; the lid should remain closed whilst the machine is in operation. Items should be rinsed thoroughly on completion of the cycle. The detergent solution should be renewed at least weekly.
- l) Instruments should then be sterilised in a bench top autoclave; if using a non-vacuum type then the instruments should be placed **UNWRAPPED** in the autoclave. On completion of the cycle the instruments should be placed in an airtight plastic container and if not used within 3 hours they must be re-sterilised.
- m) If a vacuum type autoclave is used then instruments should be wrapped/pouched prior to sterilisation. A drying cycle is required to ensure that the pouches etc are not left in a damp condition. The pouches remain sterile for up to 6 months.
- n) Autoclaves should be run daily on a test cycle to ensure the machine is working correctly, door seals etc should be checked weekly. The autoclave should be maintained/serviced in accordance with the manufacturer's recommendations and written evidence should be available on site.
- o) Needles, pigment caps, razors and wooden spatulas are single use only and must be disposed of as clinical waste after use.
- p) Any jewellery, which contains more than 0.05% nickel shall not be used, as this may cause an allergic reaction.
- q) A written aftercare leaflet shall be given to each client in accordance with general condition 15.

6) Electrolysis

- a) Individual pre-wrapped sterilised needles shall be used and disposed of as clinical waste after each client.

7) **Semi-permanent make up/micropigmentation**

- a) A consultation with the client shall take place prior to the treatment, during which time a patch test shall be carried out for adverse reactions to the pigments intended to be used, and any contra – indications discussed.
- b) Disposable gloves should be worn throughout the procedure these should be non-powdered nitrile or vinyl. They should be disposed of as clinical waste.
- c) Under the Controlled Waste Regulations 1992 and the Environmental Protection Act 1990 operatives/licence holders have a duty of care to ensure that all clinical waste i.e. used dressings, swabs etc (infected or not) and used needles are collected and disposed of by a licensed contractor. A waste transfer document shall be available at the premises for inspection.
- d) The clinical waste bags shall be yellow and marked as ‘Biohazard – clinical waste’ and whilst awaiting collection should be stored in a secure area.
- e) Sharps containers shall comply with the British Standard BS7320 and UN3291 and carry the ‘kitemark’. Sharps containers should be sited above floor level and below shoulder level.
- f) Needles and other component parts should where possible be the single use disposable type. These must be disposed of as clinical waste.
- g) Re usable instruments should be manually cleaned in the sink before undergoing the ultrasonic process, cleaning should occur below water level rather than under running water. Staff should wear suitable aprons etc during this process if there is a risk of splashing.

Following the manual cleaning the instruments should be put through a cycle in an ultrasonic cleaner, the lid should remain closed whilst the machine is in operation. Items should be rinsed thoroughly on completion of the cycle. The detergent solution should be renewed regularly.

- h) Instruments should then be sterilised in a bench top autoclave, if using a non-vacuum type then the instruments should be placed UNWRAPPED in the autoclave. On completion of the cycle the instruments should be placed in an airtight plastic container and if not used within 3 hours they must be resterilised.

If a vacuum type autoclave is used then instruments should be wrapped/pouched prior to sterilisation. A drying cycle is required to ensure that the pouches etc are not left in a damp condition. The pouches remain sterile for up to 6 months.

- i) Autoclaves should be run daily on a test cycle to ensure the machine is working correctly, door seals etc should be checked weekly. The autoclave should be maintained/serviced in accordance with the manufacturer's recommendations and written evidence should be available on site.
- j) A written aftercare leaflet shall be given to each client.

8) **Body Piercing**

- a) A piercing may only be performed by an approved operative who is named on the licence.
- b) Piercings with the exception of nipple and genital may be carried out with written parental consent under the age of 16.
- c) Piercings with the exception of the genitals may be carried out on 16-18 year olds with either parental consent or a valid photographic identification e.g. passport or driving licence.
- d) Any piercing may be carried out on anyone over 18 years of age with a valid photographic identification e.g. passport or driving licence.
- e) Prior to treatment **every** client or parent/guardian shall read and sign a consent form, which contains details of name, address, age etc. These records shall be kept for at least 3 years and be available for inspection at the premises. A specimen consent form is attached as Appendix B.
- f) Single use disposable gloves should be non-powdered and made from nitrile or vinyl must be worn during the procedure. These must be disposed of as clinical waste in accordance with general condition 9.
- g) The following guns are approved for ear piercing, **Inverness, Coren, Caress, Caflon, Studex, Tripps and Poly Dots Cassette.**
- h) The following guns are approved for nose piercing, **Studex.**
- i) Jewellery fitted with a stud shall not be used in nose piercing.
- j) A written aftercare leaflet for all piercings shall be given to each client.
- k) It is recommended that operatives are immunised against Hepatitis B.
- l) It is recommended that operatives hold a valid first aid certificate.
- m) Administration of local anaesthetic injections other than by medically qualified practitioners is an offence.
- n) Under the Medicines Act 1968, local anaesthetic creams, sprays, gels etc. are prescription only medicines and pharmacy medicines which may only be sold by pharmacists for medical application on the patient only. Their use prior to a body piercing is therefore an offence.

- o) All walls, floors, surfaces, seating etc shall be made of washable material.
- p) Under the Controlled Waste Regulations 1992 and the Environmental Protection Act 1990 operatives/licence holders have a duty of care to ensure that all clinical waste i.e. used dressings, swabs etc (infected or not) and used needles are collected and disposed of by a licensed contractor a waste transfer document shall be available for inspection.
- q) The bags shall be yellow and marked as 'Biohazard – clinical waste' and whilst awaiting collection should be stored in a secure area.
- r) Sharps containers shall comply with the British Standard BS7320 and UN3291 and carry the 'kitemark'. Sharps containers should be sited above floor level and below shoulder level.
- s) An accessible wash hand basin should be fitted within the operating area provided with hot and cold running water, preferably by mixer taps. Liquid soap and a paper towel dispenser should also be fitted in this area.
- t) In addition to the wash hand basin, a deep sink with hot and cold running water should be provided exclusively for washing used equipment, this should be fitted in a separate 'dirty' area away from the clean operating area.
- u) Used instruments should be manually cleaned in the sink before undergoing the ultrasonic process, cleaning should occur below water level rather than under running water. Staff should wear suitable aprons etc during this process if there is a risk of splashing.
- v) Following the manual washing, the instruments should be put through a cycle in the ultrasonic cleaner; the lid should remain closed whilst the machine is in operation. Items should be rinsed thoroughly on completion of the cycle. The detergent solution should be renewed at least weekly.
- w) Instruments should then be sterilised in a bench top autoclave, if using a non vacuum type then the instruments should be placed UNWRAPPED in the autoclave. On completion of the cycle the instruments should be placed in an airtight plastic container and if not used within 3 hours they must be re-sterilised.

If a vacuum type autoclave is used then instruments should be wrapped/pouched prior to sterilisation. A drying cycle is required to ensure that the pouches etc are not left in a damp condition. The pouches remain sterile for up to 6 months.

- x) Autoclaves should be run daily on a test cycle to ensure the machine is working correctly, door seals etc should be checked weekly. The autoclave should be maintained/serviced in accordance with the manufacturer's recommendations and written evidence should be available on site.

- y) Needles, gloves etc are single use only and must be disposed of as clinical waste after use.
- z) Any jewellery which contains more than 0.05% nickel shall not be used, as this may cause an allergic reaction.
- aa) All jewellery shall be sterilised in the autoclave prior to use in the piercing.

9) Artificial Nails

- a) Written records containing clients name, address, telephone number, date of treatments and operatives name shall be kept for each client. These shall be kept for a period of at least 3 years and be available at the premises for inspection.
- b) The condition of the client's nails should be examined prior to any treatment and if there is any presence or suspicion of any infection etc they should be referred for medical treatment.
- c) All operatives shall be qualified to Level 3 Unit 19 NVQ standard or an acceptable equivalent which is approved by the Council. Copies of qualifications shall be available for inspection at the premises.
- d) An assessment shall be carried out of all products used in connection with the treatment e.g. Acetone, Ethyl Methacrylate etc under the Control of Substances Hazardous to Health Regulations 2002. Copies of safety data sheets for all products used shall be available on the premises.
- e) Products containing Methyl Methacrylate (MME) are subject to an occupational exposure limit and research has shown that regular exposure to them can cause respiratory etc sensitisation. The use of a suitable alternative product should be considered e.g. Ethyl Methacrylate (EMA).
- f) All products used in the premises should be stored in suitably labelled containers, specifying details of contents, supplier etc.
- g) Floor coverings shall be made of impervious material which can be easily cleaned.
- h) Any cotton wool etc which has come into contact with nail liquids should be disposed of in suitably covered receptacles.
- i) Dispensed nail liquids shall be kept in covered containers at all times when not in use.
- j) Electric drills may only be used by suitably trained operatives, written evidence of training should be available on site.
- k) Drill bits etc shall be cleaned between use on each client.

10) Non Surgical Lasers/IPLS

- a) The licence holder shall employ the services of an Expert Medical Practitioner (someone with verifiable qualifications in the use of laser equipment) to produce the 'treatment protocol' document which shall be kept on site. (Appendix C outlines the information required in this document)
- b) The Licence holder shall employ the services of a certificated Laser Protection Advisor who will assist in the production of the 'local rules' document (A specimen laser local rules document is attached as Appendix D).

The 'local rules ' shall be updated if there are any changes made to the equipment in use, changes in procedure or treatment room if these affect the safe use of the laser/IPL.

- c) All authorised users of laser/IPLS shall be trained to at least the Core of Knowledge Certificate level and records of such training shall be kept on site with the local rules. Any training on the specific equipment in use at the premises shall also be recorded. Such training should be refreshed every 3-5 years.
- d) A suitably qualified member of staff on the premises shall be identified as the laser protection supervisor they will have day to day to responsibility of ensuring the local rules are followed.
- e) A treatment register shall be completed every time the laser/IPLS is operated, including the following information:
 - the name of the person treated (including a second means of identification);
 - the date and time of treatment;
 - the name and signature of the laser/IPLS operator;
 - the nature of the laser/IPLS treatment given
 - the treatment parameters
 - any accidents or adverse effects.

Laser/IPL Controlled Area

- f) The area around working lasers/IPLS shall be controlled to protect other persons while treatment is in progress. The controlled area shall be clearly defined and not used for other purposes.

A suitable safety warning sign or light entry system which complies with current British Standards shall be in place on the door of the controlled area.

- g) All lasers/IPLS 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.
- h) The door to the controlled area shall be fitted with a suitable device which can be operated from the outside in an emergency
 - i) Any windows in the controlled area shall be fitted with opaque blinds approved by the LPA .
 - i) The controlled areas shall be kept clear of clutter, mirrors shall be avoided and jewellery shall not be worn.
 - k) Surfaces within the controlled area shall be of a matt or eggshell Finish.
 - l) Protective eyewear shall be worn by everyone within the controlled area whenever there is a risk of exposure to laser/IPLS. All protective eyewear shall be marked with the wavelength range and protection offered as detailed in the local rules document. They shall be in a clean serviceable condition.
 - m) The laser protection supervisor shall ensure that the key to any laser or IPLS equipment is kept in a secure and separate area when not in use and that only authorised users have access to the key.
 - n) Lasers/IPLS shall be serviced annually and a record kept of servicing and repairs with the local rules document.
 - o) Adequate first aid equipment should be kept on site with and staff should be trained in the use of the equipment. Records of such training should be kept for a period of 3 years.

APPENDIX A1

**CERTIFICATION REQUIRED TO
BE AVAILABLE AT THE LICENSED PREMISES**

1) Electricity

- All applicants and licence holders are required to hold valid documentation confirming the safety of the fixed wiring throughout the premises. All works must be carried out by a competent electrical engineer in accordance with the Electricity at Work Regulations 1989. e.g. NICEIC 'Periodic Inspection Report For An Electrical Installation'.

2) Sterilisers

- All applicants and licence holders are required to hold valid documentation confirming the safety/calibration of all sterilisers which are used in connection with the business e.g. autoclaves, ultrasonic cleaners, ultra violet cabinets etc. All works must be carried out by a competent engineer.

3) Controlled Waste

- All applicants and licence holders shall hold a copy of the licence of the contractor who is removing the controlled waste.
- Copies of transfer documents for the removal of controlled waste should also be held.

4) Insurance

- A copy of the employers liability (where applicable) and public liability certificates should be available for inspection.

5) Training

- All certificates of qualification relevant to the licensed treatments shall be available for inspection.

6) Fire Risk Assessment

Where the Regulatory Reform (Fire Safety) Order 2005 applies to your premises you must carry out a FIRE RISK ASSESSMENT and make an EMERGENCY PLAN.

APPENDIX A2

CONSENT FORM

(Name & Address of premises)

I hereby declare that I give (piercer /tattoo artists name) my full consent to (pierce / tattoo) me and that the information given below is true to the best of my knowledge.

I have /suffer from the following:

Heart Condition /Pacemaker	NO/YES
Epilepsy	NO/YES
Haemophilia	NO/YES
HIV/Hepatitis	NO/YES
High Blood Pressure	NO/YES
Diabetes	NO/YES
Skin condition e.g. Psoriasis	NO/YES
Allergies i.e. plasters	NO/YES
Taking blood thinning medication e.g. aspirin	NO/YES

I understand that no form of anaesthetic will be used in the procedure.

I understand that every care will be taken to ensure that the procedure is carried out in a hygienic way, which includes the use of disposable or pre-sterilised equipment.

I will follow the verbal and written aftercare instructions which have been given to me.

I AM NOT UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
I HAVE REQUESTED THIS PIERCING / TATTOO OF MY OWN FREE WILL

Print Full Name.....

Address

.....

AGE Date of Birth..... Type of ID

Signature of clientGuardian if under 16

Date..... Tattoo/piercing site

.....

APPENDIX A3

Laser /IPLS Treatment Protocol Document

A treatment protocol must be produced by an expert medical practitioner (EMP) in relation to the licence holders equipment/premises.

The treatment protocol sets out the necessary pre-treatment checks and tests, the manner in which the laser/IPLS is to be applied, the acceptable variations in the settings used, and when to abort a treatment.

The treatment protocol should be signed and dated by the EMP to confirm authorisation, should be reviewed annually and include a projected date for review.

A separate treatment protocol should be in place for each laser/IPLS in use at the licensed premises.

The treatment protocol must include the following:

- name and technical specifications of the equipment
- contraindications
- treatment technique – general
- treatment technique – hair reduction
- client consent prior to treatment
- cleanliness and infection control
- pre-treatment tests
- post-treatment care
- recognition of treatment-related problems
- emergency procedures
- permitted variation on machine variables
- procedure in the event of equipment failure

APPENDIX A4

CONTENT OF LASER/IPLS LOCAL RULES DOCUMENT

1) Potential Hazards

List all types of hazards including fire, skin and eye injuries, electrical etc

2) Device Description

Description of all devices including output, serial numbers etc..

3) Treatment Protocol

Reference to separate document produced by the Expert Medical Practitioner.

4) Written Procedures

Supported by reference to user manual/training manual etc

5) Adverse Incident Procedure

a) Details of actions that shall be taken in cases of emergency e.g. eye exposure

b) Name, address and telephone number of local accident and emergency department.

c) Any incidents must also be reported to the Council.

6) Emergency Shutdown Procedure

Instructions as set down in manufacturer's manual or treatment protocol.

7) Register of Authorised Users

Details of trained personnel with signed declarations of individuals.

8) Laser Protection Advisor

Contact details of the LPA

9) Laser Protection Supervisor

a) One Authorised User shall be nominated Laser Protection Supervisor to ensure that the register is maintained and the local rules are adhered to

b) Name of the laser protection supervisor

10) Record of laser use

A register shall be kept which will separately record the following information every time the IPL is operated

The name and date of birth of the person treated
date of treatment
the operator
the treatment given
any accident or adverse effects.

11) Laser/IPL Operator Training

a) All laser/IPL 'authorised users' shall hold the Core of Knowledge Training Certificate together with specific training on the use of on site equipment provided by the supplier of the Laser/IPLS.

b) Details of all training shall be recorded in the Register of Authorised Users or a separate Training Register.

12) Controlled Area designation and access

a) The room in which the laser/IPLS is used shall be designated a 'Controlled Area' and the laser shall only be used in this area. Approved warning signs shall be fitted to the door i.e. 'Controlled Area', 'Eye Protection' etc

b). A notice should be fixed to the laser/IPLS indicating that its use is subject to the Local rules.

13) Register of Authorised Users

A register shall be kept of personnel authorised to operate the equipment.

14) Safe Operation of device

a) No more than one laser/IPL shall be switched on during the client treatment.

b). When the laser/IPL is in operation the number of persons in the room shall be kept to a minimum.

c) The laser/IPL shall not be enabled to fire unless it is directed towards the treatment site or a beam stop.

d) The Authorised User shall be careful to avoid reflections of the beam from Instruments/equipment in close proximity to the beam path, Matt/non reflective surfaces etc shall be provided.

e). Whenever the device is unattended by an Authorised User, the laser shall be switched off and the key withdrawn and placed in safe custody by the Authorised User.

15) Operator responsibility

a) It is the responsibility of the equipment Authorised User to be aware of the nature of the hazard involved and to be familiar with the manufacturer's operating instructions.

b) During the operation of the laser (or IPL) the Authorised User is responsible for the safety of all persons present, including the client and themselves.

16) Protective eyewear

Protective eyewear shall be provided and clearly marked for the laser. It is important that the correct goggles are used e.g. the use of a coloured sticker or other identifier on the goggles matches a similar identifier on the laser or IPL. The Authorised User shall instruct all personnel in the Controlled Area to wear goggles suitable for the laser being used.

17) Application of local rules

a). The laser shall only be used in accordance with these local rules.

b). Authorised Persons shall sign statements that they have read and understood these local rules.

c) The local rules shall be kept in the treatment room/s at all times.

Special Treatment Premises
Code of Practice
Class 3B and Class 4 Lasers and Intense Light Systems

1.0 PURPOSE

The purpose of this Code of Practice (COP) is to support the policy decisions and conditions of licence adopted by the Council in respect of Special Treatments Establishments.

2.0 SCOPE

This CoP details specific requirements for Class 3B and 4 lasers and Intense Light Systems in addition to those laid down in the Regulations prescribing standard conditions applicable to all special treatment premises.

3.0 DEFINITIONS

3.1 Laser

This is an acronym of Light Amplification by Stimulated Emission of Radiation. In the beauty industry lasers are generally used for non-invasive cosmetic treatments, such as removal of; hair, tattoos, birthmarks, acne scarring, and other blemishes, from the skin. The mode of emission of the radiation can be continuous, wave, or pulsed.

3.2 Class 3B lasers

Radiation in this class is likely to be dangerous, maximum output into the eye must not exceed 500mW. The radiation can be hazardous to the eye or skin, but viewing of diffuse reflection is safe.

3.3 Class 4 laser

Highest class of laser radiation, diffuse reflection is also hazardous. If used incorrectly it can cause serious skin and eye injuries and is capable of setting fire to material.

3.4 Intense Light Systems (ILS)

Intense light systems are generally treated as class 4 lasers. Intense Pulsed light (IPL) systems fall into this category and are the intense light system generally used for non-invasive cosmetic treatments found in the beauty industry. IPL is pulsed or shuttered emission which gives tissues time to cool between pulses.

3.5 Expert Medical Practitioner – EMP

The EMP is a qualified medical practitioner with verifiable clinical expertise in using laser/intense light systems to treat patients/clients.

3.6 Expert Dental Practitioner – EDP

The EDP is a qualified Dental Practitioner with verifiable clinical expertise in using laser/intense light systems to treat patients/clients.

3.7 Laser Protection Advisor – LPA

The LPA is the person providing expert advice on laser/ILS safety. The LPA will carry out hazard analysis and risk assessment for each laser/ILS installation and advise on training, protective eye wear and ensure local rules are produced, signed, dated and implemented for each installation. The LPA may be external to the business.

3.8 Local Rules

The Local Rules are produced by the LPA and are a set of rules specific to each installation, detailing safe working practice and day-to-day safety management.

3.9 Laser Protection Supervisor – LPS

The LPS is usually an employee of the business and is responsible for; supervising the work of all laser/ILS authorised users, the safety and security of all laser/ILS, ensuring all users are appropriately trained to operate the laser/ILS, and that the Local Rules document is followed on a day to day basis.

3.10 Authorised User

The Authorised user is the individual who operates the laser/ILS equipment to treat clients.

4.0 ACCESS TO EXPERT ADVICE

4.1

The licence holder shall employ the services of an Expert Medical Practitioner (EMP) to produce the 'treatment protocol' document and to provide ongoing support and advice.

4.2

The Licence holder shall employ the services of a certificated Laser Protection Advisor (LPA) to produce local rules and provide ongoing support and advice.

4.3

Both the Local Rules and the Treatment Protocol must be available for reference, next to each machine.

5.0 LOCAL RULES

5.1

A Local Rules document must be produced by a certified LPA in relation to the licence holder's equipment/premise.

5.2

The Local Rules should be issued, signed and dated by both the employer and the LPA and should be reviewed annually and include a projected date for review. They must be retained on site.

5.3

Local Rules must identify the named person authorised to operate the laser/ILS.

5.4

The laser must only be used in accordance with these rules.

5.5

Authorised users must sign to indicate they accept, understand and agree to work to the local rules procedure.

5.6

Local Rules must be available for each installation even if they are being used on a trial basis and must include the following:

- Potential hazards associated with lasers and ILS
- Controlled and safe access
- Authorised users responsibilities
- Methods of safe working
- Safety checks
- Normal operating procedures
- Personal protective equipment
- Prevention of use by unauthorised persons
- Adverse incident procedure
- Procedure to ensure that unauthorised persons do not operate the laser or ILS when the machine is left unattended by an authorised user.

6.0 CLIENT CONSULTATION/TREATMENT PROTOCOL

6.1

A treatment protocol must be produced by an Expert Medical Practitioner (EMP) in relation to the licence holder's equipment/premises.

6.2

The treatment protocol should be signed and dated by the EMP to confirm authorisation, should be reviewed annually and include a projected date for review. The treatment protocol must be retained onsite.

6.3

A separate treatment protocol should be in place for each laser/ILS in use at the licensed premises.

6.4

The treatment protocol must include the following:

- name and technical specifications of the equipment
- contraindications
- treatment technique – general
- treatment technique – hair reduction
- client consent prior to treatment - including checking skin type and pigmentation
- cleanliness and infection control
- pre-treatment tests and pre-treatment instructions
- post-treatment care
- recognition of treatment-related problems
- emergency procedures
- permitted variation on machine variables
- procedure in the event of equipment failure
- written aftercare advice must be provided after the first treatment

7.0 LASER PROTECTION SUPERVISOR

7.1

A person with onsite, overall responsibility for lasers/ILS must be appointed. This will be the Laser Protection Supervisor (LPS).

7.2

The LPS will ensure the following:

- local rules are followed and kept
- have day-to-day responsibility for laser safety
- will inform the LPA if they consider that the existing rules require changing
- Ensure that the LPA is advised as soon as possible in the event of an incident occurring.
- inform the Food Health and Safety Team London Borough of Hillingdon in the event of an incident occurring
- Ensure all laser/ILS Authorised Operators are appropriately trained and that the training is documented.
- ensure a register of Authorised Operators is maintained
- Ensure lasers are used only for treatments for which authorised users have been trained and are competent.

8.0 OPERATOR RESPONSIBILITY

- While the equipment is being operated the Authorised User must be responsible for the safety of all persons in the controlled area, including the client.
- The Authorised User must ensure removal of reflective jewellery from self and client.

9.0 TREATMENT REGISTER

9.1

A treatment register must be maintained every time the laser/ILS is operated and must include:

- The name of the person treated
- The date and time of the treatment
- The name and signature of the laser/ILS operator
- The nature of the Laser/ILS treatment given
- The treatment parameters
- Any accidents or adverse effects

9.2

The treatment register may be combined with the client consultation/treatment protocol document.

10.0 CONTROLLED TREATMENT AREA

10.1

The area around working lasers and intense light systems must be controlled to protect other persons while treatment is in progress.

10.2

The controlled area must be clearly defined and the laser may only be used in this room.

10.3

The controlled area must not be an access to other areas when laser/ILS treatments are being carried out.

10.4

No other laser or ILS should be in use in the same controlled area at the same time.

10.5

Suitable warning signs must be displayed on the outside of doors to the controlled area.

10.6

All lasers and ILS must comply with current standards (BS EN 60601-2-22 for medical lasers and BS 60601-2-57 for ILS)

10.7

Lasers must be clearly labelled on the front of the machine with the following information:

- Identification of the machine
- The wavelength or range of wavelength
- Maximum output power of the radiation emitted.

10.8

For all laser and intense light sources with a key switch, formal arrangements must exist for the safe custody of the key, separate from the equipment.

10.9

Only Authorised Users may have access to the key.

10.10

The operating key must not be left unattended with the laser/ILS equipment.

10.11

Equivalent arrangements must exist for equipment protected by password instead of key.

10.12

Mirrors and other reflective surfaces must be avoided.

10.13

All windows in the controlled area should be supplied with non-reflective window coverings such as blinds.

11.0 PROTECTIVE EYEWEAR**11.1**

Protective eyewear shall be provided and clearly marked for the laser.

11.2

All protective eyewear must be marked with the wavelength range and protection offered.

11.3

The specification of the required eyewear must be indicated in the Local Rules.

11.4

The Authorised User shall instruct all personnel in the Controlled Area to wear goggles suitable for the laser being used.

11.5

Effective eyewear must be worn by everyone within the controlled area whenever there is a risk of exposure to hazardous levels of laser or ILS radiation.

11.6

Protective eyewear must be adequately cleaned and disinfected between treatments.

12.0 QUALIFICATIONS**12.1**

All Authorised Users must hold a qualification that meets National Occupational Standards (NOS) at level 3 in a relevant subject. In exceptional circumstances, where NOS qualifications are not available, an assessment will be carried out on an individual basis and further training required as appropriate.

12.1

All Authorised Users and the LPS must be trained to at least the laser/ILS Core of Knowledge safety training. Records of training must be kept at the premise and available at all times by inspecting officers. Records must include the training curriculum.

12.2

All Authorised Users and the LPS must receive further training on the specific laser/IPL in use. Records of this training must be kept on site and available at all times for inspecting officers. Records must include the training curriculum.

12.3

Records of training must be kept with the local rules.

12.4

All training must be refreshed every 3-5 years.

13.0 MAINTENANCE

13.1

The laser and ILS must be serviced and maintained according to the manufacturers' instructions to ensure they are operating within their design specification.

13.2

A record of service and repairs must be kept on site and available for inspecting officers.

13.3

Lasers and ILS must have an electrical safety test carried out annually.

14.0 REVIEW

This Code of Practice will be reviewed regularly and updated in light of current industry guidance and legal opinion. Any changes will be notified to licensees and will be attached as conditions to your licence with effect from the date of the next renewal of your licence.

Up to date copies are available from our website at:

<http://www.Hounslow.gov.uk> or by phoning 020 8583 5555

15.0 FURTHER INFORMATION

Independent Healthcare Advisory Service (IHAS)

Centre Point

103 New Oxford Street

London WC1A 1DU

02073798598

www.independenthealthcare.org.uk

Association of Laser Protection Healthcare Advisors (ALPHA)

88 Noahs Ark Lane

Lindfield

Haywards Heath

West Sussex RH16 2LT

535153 125102

Medicines and Healthcare Products Regulatory Agency (MHRA)

Market Towers

1 Nine Elms Lane

London

SW8 5NQ

020 7084 2000

www.mhra.gov.uk

Device bulletin MHRA DB 2008(03)

Hair and Beauty Industry Authority (HABIA)

Oxford House

Sixth Avenue

Sky business Park

Robin Hood Airport

Doncaster DN9 3GG

0845 2306080

www.habia.org.uk



LONDON LOCAL AUTHORITIES ACT 1991 (AS AMENDED)

LIST OF BODIES OF HEALTH PRACTITIONERS GRANTED EXEMPTION UNDER SECTION 4 AS AT 8 MARCH 2011

By virtue of section 4c London Local Authorities Act 1991, anyone who is state registered does not require a licence. This includes Osteopaths, Physiotherapists, Chiropodists etc.

The Current List of exempt bodies and qualifying treatments are:

Acupuncture	
The British Acupuncture Council 63 Jeddo Road London W12 9HQ	Acupuncture Moxibustion Cupping Acupressure Tui Na Auricular Acupuncture Electro Acupuncture
The Acupuncture Society, 27 Cavendish Drive Edgware Middlesex HA8 7NR	Acupuncture Acupressure Moxibustion Cupping Auricular Acupuncture Electro Acupuncture
The Acupuncture Association of Chartered Physiotherapists Secretariat Portcullis Castle Street Mere Wiltshire BA12 6JE	Acupuncture Physiotherapy Acupressure Moxibustion Auricular Acupuncture
Association of Traditional Chinese Medicine inc Zhong Shan Chinese Medicine & Acupuncture Association 5a Grosvenor House 1 High Street Edgware London HA8 7TA	Acupuncture Qi Gong Tui Na

Federation of Traditional Chinese Medicine Practitioners 21 Devon Road Cheam Surrey SM2 7PE	Acupuncture Tui Na Reflexology
Aromatherapy	
International Federation of Professional Aromatherapists (inc the Register of Qualified Aromatherapists, The International Society of Professional Aromatherapists & Int Federation of Aromatherapists) 82 Ashby Road Hinckley Leicestershire LE10 1SN	Aromatherapy Massage
Aromatherapy & Allied Practitioners Association PO Box 36248 London SE19 3YD	Aromatherapy Massage
Ear Piercing	
Royal Pharmaceutical Society of GB (ear piercing only) 1 Lambeth High Street London SE1 7JN	Ear Piercing
Reflexology	
British Reflexology Association Monks Orchard Whitbourne Worcester WR6 5RB	Reflexology
Association of Reflexologists inc the International Institute of Reflexology 5 Fore Street Taunton Somerset TA1 1HX	Reflexology
International Federation of Reflexologists 8-9 Talbot Court London EC3V 0BP	Reflexology

Shiatsu	
Shiatsu International Maulak Chambers The Centre High Street Halstead Essex CO9 2AJ	Shiatsu
Shiatsu Society UK Eastlands Court St Peter's Road Rugby Warwickshire CV21 3QP	Shiatsu
Zen Shiatsu Society 1st Floor 68 Great Eastern St London EC2A 3JT	Shiatsu
Sports Massage	
Sports Massage Association 86 Nelson Road London SW19 IHX	Sports Massage
Institute of Sports & Remedial Massage Cottage 2c TGEC Town Hall Approach Rd London N15 4RX	Sports & Remedial Massage
BASRAT – British Association of Sport Rehabilitator's and Trainers. Angela Cumine c/o St Marys University College Strawberry Hill, Twickenham YW1 4SX	Sports Massage
Trichology	
Institute of Trichologists 24 Longroyd Road London SW17 7PL	Trichology Head Massage

Miscellaneous	
Association of Naturopathic Practitioners Coombe Hurst Coombe Hill Road East Grinstead West Sussex RH19 4LZ	Acupuncture Holistic Massage
Complementary Medical Association Three Corners 49 Albany Road St Leonards on Sea East Sussex TN38 0LJ	Acupressure Aromatherapy Ayurveda Colour Therapy Qi Gong Reflexology Shiatsu Indian Head Massage
Complementary Therapists Association PO Box 6955 Towcester NN12 6WZ	Aromatherapy Bowen Therapy Manual Lymphatic Reflexology Shiatsu Sports, therapeutic & holistic massage
Federation of Holistic Therapists 18 Shakespeare Business Centre Hathaway Close Eastleigh Hampshire S050 9XG	Acupressure Aromatherapy Bowen Therapy ML Drainage Reflexology Shiatsu ,Sports & Remedial massage Moxibustion Thai Massage & Foot Massage
Institute for Complementary Medicine also known as British Register of Complementary Practitioners PO Box 194 London SE16 7QZ	Acupuncture Acupressure Aromatherapy Bowen Technique M L Drainage Remedial, Sports, Holistic and Indian Head Massage Reflexology Shiatsu Tui Na Qi Gong

<p>British Complementary Medicine Association PO Box 5122 Bournemouth Dorset BH8 OWG</p>	<p>Acupuncture Polarity Therapy Indian Head Massage Manual Lymphatic Drainage Aromatherapy</p>
<p>Association of Physical and Natural Therapists 27 Old Gloucester Street London WC1N 3XX</p>	<p>Therapeutic & sports massage Reflexology Aromatherapy Acupressure</p>
<p>LCSP Register of Remedial Masseurs & Manipulative Therapists 330 Lytham Road Blackpool Lancs FY4 1DW</p>	<p>Remedial Massage</p>
<p>Health Professionals Council (Members are automatically exempted by Section 4c of the LLA 1991 as State Registered)</p>	<p>Chiropody Physiotherapy</p>
<p>Independent Professional Therapists International PO Box 106 Retford DN22 7WN</p>	<p>Aromatherapy Bowen Technique Holistic, Therapeutic & Remedial Massage Lymphatic Drainage Shiatsu, Sports Massage, Acupressure Thermo Auricular Therapy, Metamorphic Technique, Polarity Therapy, Reflexology, Moxibustion, Rolfing</p>
<p>Massage Training Institute P0 Box 44603 London N16 0XQ</p>	<p>Remedial & Therapeutic Massage</p>

Contact: Gary O'Shea
Tel: 020 8583 5144
E-Mail: gary.o'shea@Hounslow.gov.uk

Licensing Committee – 19 April 2011

London Local Authorities Act 1990 (as amended) – Street Trading Policy and Fixed penalty Notices

Report by: Director of Environment

Summary

Following resolution of the Licensing Committee on 8 March 2011, the Fixed Penalty Charges and Street Trading Policy have undergone a process of consultation. The purpose of this report is to request that the draft now be formally adopted by the Licensing Committee under powers delegated to them by the Council.

1.0 Recommendations

- 1.1 It is recommended that the proposed Fixed Penalty Charges and Policy be formally adopted in relation to all Street Trading within the Borough with immediate effect.

2.0 Introduction

- 2.1 The Licensing of Street Trading within the Borough is governed by the London Local Authorities Act 1990 part 3 (the Act). This allows the Council to designate streets as 'Licence Streets' where street trading may take place, (under either a permanent annually renewed licence or a temporary licence issued for a maximum of 6 months), make regulations to control trading and to set fees and charges.
- 2.2 The draft policy and penalty charges were presented to Licensing Committee on 8 March 2011, where it was resolved that they should undergo consultation with all licence holders as prescribed by section 27 of the Act.

3.0 Street Trading Policy

- 3.1 The purpose of the Street Trading Policy is to create a street trading environment which compliments premises based trading, is sensitive to the needs of residents, provides diversity and consumer choice and seeks to enhance the character, ambience and safety of the local environment. It will also provide a basis upon which applications will normally be considered and whilst each application must be considered on its individual merits, a policy should ensure that in most cases an applicant has addressed key issues and requirements.
- 3.2 The Policy has been formulated in line with best practice guidance and is intended as far as possible to uphold the key principle of any licensing regime, namely that of public safety.
- The Street Trading Policy is attached as appendix A.
- 3.3 Whilst the Policy provides a framework for how the Authority will exercise its functions in relation to street trading and the normal expectation of licence holders and applicants, it is a requirement that the flexibility of assessing each application individually must be maintained. For example, if in the individual circumstances of any particular application members considered that the policy was not

	appropriate; it would be acceptable to depart from it.
3.4	Fundamentally the Policy contains information on who may require a licence, the Council's considerations in determining an application, information on fees and how to apply, and sets out the process that the Council will adopt in relation to enforcement.
4.0	<u>Fixed Penalty Notices</u>
4.1	The London Local Authorities Act 2004 introduced provisions to enable certain street trading offences to be dealt with by way of fixed penalty notices as an alternative to summary prosecution. Details of the offences together with the amount of the fixed penalty are set out at Appendix B.
4.2	Section 17 of the London Local Authorities Act 2004 states it is the duty of the Borough Councils to set the levels of fixed penalties payable under the Act.
4.3	In setting the level of fixed penalty the Councils may take account of: <ul style="list-style-type: none"> (a) any reasonable costs or expected costs incurred or to be incurred in connection with the administration of the provisions of the enactment under which the particular fixed penalty offence is created; and (b) the cost or expected cost of enforcing the provisions of the relevant enactment.
4.4	Taking into account the criteria outlined above, the proposed level of penalty has been calculated in respect of each of five different offences as permitted under section 17 of the London Local Authorities Act 2004. This takes into account a variety of costs such as visits, enforcement and administration.
4.5	In accordance with recognised policy, enforcement activity commences with the provision of information so that traders know what is expected of them. This is followed by advice and guidance from Enforcement Officers who may issue either verbal or written warnings as to the consequences of non-compliance. Continuing non-compliance will result in the issue of a Fixed Penalty Notice which if unpaid, (or if there are further breaches); may result in summary prosecution and consideration given to revocation of a licence (where applicable).
4.6	The use of fixed penalties for illegal street trading offers flexibility and responsiveness. It is a quicker and less costly route than summary prosecution. Moreover, in terms of impact on the environment and residents' perception that a matter has been handled quickly and efficiently, a fixed penalty offers good value for the money.
5.0	<u>Consultation</u>
5.1	Consultation with all licence holders took place for a period of 28 days between 9 March 2011 and 5 April 2011.
5.2	Although there were some enquiries and questions posed by members of the trade in relation to the fixed penalty charges in particular, there have been no written responses received.
5.3	Whilst verbal comments do not constitute a formal response to the consultation, these have been generally positive with traders (particularly those with permanent licences) being receptive to the idea of penalty charges being imposed against unlawful trading in particular.
5.4	As there were no responses to the consultation, the policy has been adjusted in conjunction with advice from the Legal Department on the terms as agreed with the Committee on 8 March 2011 and is represented to the Committee with a view to being formally adopted.

6.0	<u>Comments of the Director of Finance</u>
6.1	The Director of Finance comments that any consultation costs, which are predominantly staffing and advertising costs, will be met from the current revenue budget. The proposed fees have been considered by Borough Council and are cost neutral assuming that the current number of applications remains fairly constant. The extent to which the volume of applications (and hence income) may be adversely affected due to the current economic climate cannot be determined.
7.0	<u>Legal Considerations</u>
7.1	The Borough Solicitor has been consulted in the drafting of this report and his comments have been included within it.
8.0	<u>Equalities</u>
8.1	Issues that may arise in relation to equality, such as access to premises, equal opportunity of trading, the rights of certain persons or groups to be considered in the application process are addressed in the policy and standard conditions. These will be further assessed on a case by case basis in relation to individual applications.
8.2	The policy and standard conditions will be kept constantly under review and should any unintended or unlawful discrimination be detected it will be amended so as the discrimination may be addressed.

Background Papers: Consultation Letters, discussion notes
This report has been or is due to be considered by: Licensing Committee
This report is relevant to the following wards/areas: All



STREET TRADING POLICY

Contents

1.0	Purpose
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Appendix i **Pre-Licensing and Standard Licensing Conditions**

Introduction

For the purposes of controlling street trading in the Borough, the London Borough of Hounslow (the “Council”) has previously adopted the relevant provisions of the London Local Authorities Act 1990 (as amended).

This policy is intended to provide a framework for the Council’s approach to the licensing of street trading throughout the Borough. It should be read in conjunction with any specific policies that the Council may agree from time to time, for particular areas in the Borough.

In the development of this policy local traders, partner agencies and other stakeholders were consulted.

1.0 **Purpose**

- 1.1 This Policy will complement and inform other Council initiatives, policies and visions.
- 1.2 This Policy will be the subject of periodic monitoring and review.
- 1.3 This Policy will be applied in a manner which is consistent with the Council’s equalities and enforcement policies.
- 1.4 The aim of this Policy is to set out the general approach of the Council when considering:
 - Applications for street designation orders;
 - Applications for street trading licences;
 - Applications for temporary licences;
 - Whether to grant, renew or revoke a street trading licence;
 - Prosecution for breach of a licence condition;
 - Enforcement of the legislation;
 - Conditions to be attached to licences.
- 1.5 The Street Trading Policy is intended to create a street trading environment which is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of the environment.
- 1.6 The Policy sets out the framework by which street trading will be controlled across the Borough.
- 1.7 The Street Trading Conditions attached to the licence (as illustrated in appendix A) are designed to protect public health and safety and are clearly set out in the Application and Guidance Pack given to applicants and attached to any Street Trading Licence awarded.
- 1.8 The Street Trading Policy aims to regulate the location and number of street traders. It aims to prevent the obstruction of the public highway by regulating street trading activities.

- 1.9 This Policy also highlights the Council's undertaking to avoid duplication with other statutory provisions and our commitment to working in partnership with other enforcement agencies.
- 2.0 **Legislation**
- 2.1 Definitions for 'Street Trading' and 'Streets' can be found in section 21 of the London Local Authorities Act 1990 (as amended) ("the Act").
- 2.2 'Street' is defined as any road or footway or any other area not being within permanently enclosed premises, within seven metres of any road or footway to which the public have access without payment.
- 2.3 'Street trading' is defined as the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.
- 2.4 'Licence Street' means a street designated under section 24 (Designation of Licence Streets) of the Act. The Council may from time to time pass a resolution to designate a street or area for the purpose of street trading.
- 2.5 'Street Trading Licence' means a licence granted in a 'Licence Street' which is valid for the period specified on the licence, being not less than six months and not more than three years. Licences in this Borough will normally be issued for a period of one year.
- 2.6 'Temporary Licence' means a licence that is valid for a single day or for such period as may be specified in the licence, not exceeding six months. This will include Occasional Licences as outlined in paragraph 4 of this Policy.
- 2.7 Under the Act the Council is responsible for granting, renewing, varying or revoking all Street Trading Licences. This function is generally undertaken by the Licensing Panel and officers within the Business Regulation Group under delegation from the Licensing Committee (the Committee).
- 2.8 Street trading without the required licence is an offence under section 38 of the London Local Authorities Act 1990 and carries a maximum fine of £1,000 upon conviction. The trader's goods may be seized and where appropriate an application made to Magistrates for a forfeiture order. Additionally prosecutions may be taken for obstruction of the highway under section 137 of the Highways Act 1980.
- 2.9 Food traders selling hot food and/or hot drinks after 11 pm and before 5 am on any day will be required to obtain the appropriate Premises Licence under the Licensing Act 2003. This will be in addition to any licence in respect of street trading.

- 2.10 Hounslow Council may refuse an application under the Act (Discretionary grounds for refusing an application) if:
- (a) the location at which the applicant wishes to trade as a stationary trader is unsuitable;
 - (b) the space in the designated street in which the applicant wishes to trade as a stationary trader is inadequate if the applicant is not to cause undue interference or inconvenience to persons or vehicles using the street;
 - (c) the area or areas of the district in which the applicant wishes to trade as a mobile trader are unsuitable if the applicant is not to cause undue interference or inconvenience to persons or vehicles in the area or areas;
 - (d) there are sufficient traders trading in the street, or at premises adjoining it, in the articles, things or services in which the applicant wishes to trade;
 - (e) the nature of the articles, things or services in which the applicant wishes to trade is such that their sale or supply, or their preparation for sale or supply, would adversely affect the general amenity of the area in which the applicant wishes to trade;
 - (f) the applicant has, in connection with the application, made a statement which he/she knows to be false in a material particular;
 - (g) the applicant is, on account of misconduct or some other reason relating to trading activities, unsuitable to hold a street trading licence;
 - (h) the applicant has, without reasonable excuse, failed to avail himself/herself to a reasonable extent of a previous street trading licence;
 - (i) the applicant has at any time been granted a Street Trading Licence by the Council, which was revoked or could have been revoked on the grounds that he/she had refused, or neglected, to pay fees or other charges due to the council in respect of the licence;
 - (j) the applicant has failed to provide the particulars required by the Council to deal with the application; or
 - (k) the applicant has failed to provide or identify suitable or adequate arrangements for storing any articles, things or receptacles in or with which he proposes to trade.

2.11 Without prejudice to its right to take account of any relevant consideration in determining the suitability of each Street Trading Licence, the Council will take into account:

- a) the safety of the public and any risks which may arise;
- b) the appropriateness and suitability of the street or part thereof and commodities in relation to the location;
- c) the potential adverse impact that Street Trading may have upon the character and appearance of the area in question;
- d) the extent to which the sale of the commodity will provide a useful service to the event or occasion not otherwise provided in the area;
- e) the potential environmental effects such as additional litter, cleansing requirements, odour and noise;
- f) the potential for the proposed Street Trading Licence to have an adverse effect in terms of anti-social behaviour and public disorder;
- g) any other statutory provision which it would be appropriate to consider; and/or
- h) previous complaints arising from any Street Trading activities in that street or part thereof.

3.0 Applications

All Licences

3.1 An applicant for the grant of a new Street Trading Licence, Temporary Licence or Occasional Licence shall provide with the application a map showing the exact location of the trading area, to include the location of any obstacles such as bus stops, street furniture etc, and all streets and public areas within a radius of 200 metres from the proposed location of the Street Trading site.

The map shall be accurate and to a scale of 1:2500 (or other scale as by prior consent in writing by the Licensing Department) and clearly indicate the location of the site in the centre of the map. Applicants may also be requested to submit photographs of the location to clarify the position of the trading site.

3.2 In all cases, two full face photographs (passport style) of the applicant

without head gear (save for religious purposes) or sunglasses must accompany the application and the name of the applicant must be clearly written on the back of each photograph.

3.3 Assistants may be employed, however, the names of all assistants must be provided at time of application (or as soon as employed if this is after the application has been granted). In respect of all such assistants, two full face photographs must be submitted as indicated in 3.2.

3.4 The conditions attached to all Street Trading Licences stipulate that a Licence Holder cannot assign, let, sell, rent or otherwise part with his interest or possession of a Street Trading Licence.

4.0 Types of Authorisation

Street Trading Licence

4.1 The Council has few suitable permanent pitches for street trading. Details of these pitches can be obtained via the Council's website or by contacting the Council's Licensing Team.

4.2 From time to time the Council may establish new pitches based on various criteria including the following:

- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving;
- any loss of amenity caused by noise, traffic or smell;
- existing Traffic Orders e.g. waiting restrictions;
- any potential obstruction of pedestrian or vehicular access; any obstruction to the safe passage of pedestrians;
- the safe access and egress of customers and staff from the pitch and immediate vicinity;
- any land owner's permission. This may be required from a private land owner or the relevant Council Service;
- the sale of goods or services which conflict with those provided by nearby shops or existing trading pitches; or
- previous trading history of the applicant

4.3 If an existing or new pitch becomes available, the Council will publish details inviting applications on the Council's website and by notice on the vacant pitch.

- 4.4 The nature of goods which may be sold from any pitch and trading hours will be specified in the consultation process.
- 4.5 Applications for a new or vacant pitch will be assessed using the following criteria:
- a) the goods to be sold must not replicate those of neighbouring stalls or shops (within a distance of 200 metres);
 - b) consideration of any health/food safety concerns;
 - c) previous trading history;
 - d) preference will be given to persons who do not occupy any other pitches in the Borough; and
 - e) character of the applicant (this may require completion of a criminal records {CRB} check)

Applicants for a Street Trading Licence must be at least 17 years of age.

- 4.6 If no suitable application is received the pitch will be re-advertised.
- 4.7 Once issued a Street Trading Licence must be operated by the licence holder and cannot be transferred. A Street Trading Licence carries a right of succession to close family members only, namely husband/wife, brother/sister, son/daughter, (bonafide step relatives will also be accepted). Otherwise if the licence holder cannot or no longer wishes to trade the licence will be terminated and the pitch will be re-advertised.

Temporary Licences

- 4.8 There are a number of activities which will require a temporary licence. These include:
- buskers and street entertainers;
 - companies promoting their services or a new product;
 - individual stalls e.g. fairground ride, hot dog seller;
 - organised multiple stalls forming a street market e.g. farmers' market, Christmas market; and

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- applications for licences where the Authority has not designated the street or area as a 'Licence Street' and where, therefore a Street Trading Licence may not be granted. Such applications will include Pavement Cafes, Shop Front Displays and some Stalls.

4.9 The following activities require an authorisation from the Council:

- a street market;
- items for sale displayed on the public footway immediately outside a shop;
- tables and chairs on the public footway immediately outside their food and drink premises;
- trading activities on private land adjacent to a street to which the public have access e.g. burger van in pub car park, flower seller outside cemetery, phone accessories outside grocers;
- trading from a mobile vehicle e.g. burger van; and
- 'A' boards.

4.10 Applications for Temporary Licences will be considered in respect of any suitable place, subject to compliance with the pre licensing and licensing conditions.

4.11 There are no succession rights with a Temporary Licence and transfer is not permitted under any circumstances. If a licence holder cannot or no longer wishes to trade the Licence will be terminated.

4.12 The Council cannot guarantee that pitches will be available every day, and accepts no liability for loss of earnings in relation to Street Trading Licence holders or their employees. In the event of road works, utility or service repairs and other genuine circumstances that affect the use of any pitch, the Licensing Manager and Head of Business Regulation will consider appropriate refunds on a case by case basis, provided a request has been made in writing from the licence holder.

Occasional Licences

4.13 The Director of Environment, or officers as designated by him for the purpose, may consider issuing Street Trading Licences to organisers of events such as Christmas Markets, Farmers Markets, car boot sales etc. The organiser will thereby become a Principal Licence Holder, which will allow them to be responsible for numerous traders operating in certain areas and/or for a limited time.

4.14 Both Principal Licence Holders and individual traders will be subject to the Council's Street Trading Policy and Standard Conditions in relation to street trading.

- 4.15 Any application granted in respect of an Occasional Licence will be granted on a temporary basis for specified days and/or for a maximum of 6 months.

Additional Conditions that are applicable to Special Events or markets operating under Occasional Licences

- 4.16 All stalls to be issued with a number that must be displayed on the stall.
- 4.17 The licence holder should keep records of each stallholder present on the market, to include the stallholder's pitch number, name and company name, their address, vehicle registration and a contact telephone number. This must be produced on request to an authorised officer.
- 4.18 The licence holder must not allow the sale of offensive weapons (including Imitation fire-arms, firearms, airguns, swords and crossbows).
- 4.19 If additional street cleaning is required as a result of the event, a charge will be levied in accordance with the Council's fees and charges.

5.0 Determination

- 5.1 All applications will be considered by the Director of Environment or by officers authorised for that purpose by him.
- 5.2 The complete application process may take up to three months in order to take into account the consultation period and if required, hearings before the relevant Licensing Panel. The Council will however aim to determine applications within two months.
- 5.3 In considering applications for the grant or renewal of a Street Trading Licence the following factors will be considered:

(a) Public Safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

(b) Prevention of Crime and Disorder

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order. This is potentially more of a problem for licences late in the evening.

(c) The Prevention of Public Nuisance

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Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise, refuse, vermin, fumes, odours or misbehaviour, particularly in residential areas.

(d) Appearance and suitability of the stall or vehicle

The stall or vehicle must be of a good quality design, of smart appearance and meet criteria, including size, laid down in the standard licence conditions. Photographs or sketches including dimensions must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle.

5.4 The trading unit must be suitable and safe for the use for which it is intended. It must be of good quality design, safe construction and add to the quality of the street scene. The unit shall comply in all respects with any legal requirement relating to the trading activity proposed and in particular with the following legislation and any consequential amendments:

- The Food Safety Act 1990.
- The Food Hygiene (England) Regulations 2006 and Regulation (EU) No 852/2004.
- Food safety requirements made under the European Communities Act 1972.
- Health and Safety at Work etc Act 1974 and any regulations made under it.
- Environmental Protection Act 1990.
- Licensing Act 2003.

This is not an exhaustive list and traders are reminded that they need to comply with all statutory legislation.

(e) Needs of the Area

The Council will consider the demand for the articles for sale, and the geographical location of the proposed site.

(f) Environmental Credentials

The impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers.

(g) Food Traders

Applicants to trade in hot or cold food must hold a current Level 2 Food Hygiene Certificate accredited by The Chartered Institute of

Environmental Health, The Royal Society of Health, or The Royal Institute of Public Health and Hygiene.

(h) Highway

The location and operating times will be such that the highway can be maintained in accordance with the Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access.

(i) History

The suitability of the applicant must be considered. Previous failures without reasonable excuse to comply with the above legislation or failure or neglect in paying licence fees may result in a licence being refused, revoked or not renewed.

6.0 Fees

6.1 Fees will be set from time to time and advertised in accordance with the provisions of the Act. These must be paid in full at the time of making the application.

6.2 The fee structure will primarily reflect pitch location, trading days and hours.

6.3 There will be no refund of licence fees should a licence for any reason become revoked or surrendered.

6.4 In the event of a licence application not being granted, the Council will retain the application fee however, the enforcement portion of the fee will be refunded.

Street Trading Licences for which fees are not payable

6.5 The Director of Environment or any officer authorised by him for the purpose, may consider reducing or exempting fees for the following street trading activities:

- fetes, carnivals or similar community based and run events;
- non-commercial or charitable events;
- farmers' markets (producer-managed market place for local producers to sell their own produce direct to local people);
- Sales of articles by householders on land contiguous with their homes (this means within the confines of their own property e.g. a garage sale).

6.6 Such exemptions or reductions will be considered taking into account a number of factors, including the appropriation of any profits collected, the purpose of the event/market, charitable considerations (proof would be required) and the area to be used for trading.

7.0 Conditions and Enforcement

7.1 This section of the Licensing Policy details the Council's commitment to enforcing the provisions contained within the relevant legislation.

7.2 Enforcement commences with the issue of clear terms and conditions at the time an application for a Street Trading Licence is made. Council officers will provide advice with respect to any issues surrounding the interpretation of licence conditions or other matters.

7.3 What action can the Council take against licence contraventions?

- Verbal warnings – e.g., where contraventions are easily resolved
- Written warnings – a more serious contravention and/or where the verbal warning has not resolved contravention
- Simple cautions
- Revocation e.g. the space available in the street is insufficient; fees unpaid
- Fixed Penalty Notices
- Prosecutions

7.4 The Licensing Team aims to work closely with other enforcement authorities when dealing with issues on the street.

7.5 If the Council considers that there is an issue of public order or threat to public safety in any particular instance, it will call for assistance from the Metropolitan Police.

7.6 The Council may call for assistance from the Councils' CCTV control centre when dealing with such issues.

7.7 Standard conditions will be attached to every Street Trading Licence and these may be varied by the Council at any time.

7.8 Specific conditions may also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.

7.9 The following are offences under the Act and will be considered for prosecution or a Fixed Penalty Notice as appropriate and in line with the enforcement policy:

1. Street trading in a prohibited street,
2. Street trading in a Licence Street without a relevant Licence to Trade,
3. Contravening any of the terms or conditions pertaining to a licence.

In addition to the formal actions outlined above a licence may be revoked, suspended, or, upon application for renewal, refused.

7.10 Any decision to prosecute an offence under this Act will be made in accordance with the CPS Code for Crown Prosecutors.

8.0 **Fixed Penalty Notices**

Recently introduced powers allow enforcement officers to issue Fixed Penalty Notices for a range of street trading offences. These include contravention of Street Trading Licence conditions and unlicensed street trading. This provides an opportunity for the trader to discharge liability to conviction by payment of a fixed sum of money. Where a trader chooses not to pay the fixed penalty a prosecution may be taken in the magistrates' court for the original offence.

8.1 The level of fixed penalty charge will be determined by the Licensing Committee from time to time and will reflect the cost of enforcement in relation to the offence committed.

8.2 Any further offences by the same individual may result in a prosecution rather than the offer of a fixed penalty. In addition to any penalty imposed by the court the offender may be ordered to pay all or part of the Council's costs in bringing the case.

9.0 **Appeals**

9.1 Under the provisions of section 30 of the Act, any person aggrieved by a refusal to grant or revocation of a licence may appeal to a Magistrates' Court. In the case of Temporary Licences however, there are no rights of appeal.

10.0 **Review**

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- 10.1 This Policy may be reviewed by the Licensing Committee or minor changes made to it by the Head of Business Regulation and Licensing Manager, in consultation with the Chair of the Licensing Committee, where circumstances require it and there is not sufficient time to convene a meeting of the Licensing Committee.

11.0 Access by Council and Police Officers

- 11.1 Licence Holders must allow access to the trading area for Authorised Officers of the Council and Police Officers at all reasonable times.

12.0 Price List

- 12.1 All Licence Holders must clearly display a price list for goods on offer for sale.

13.0 Insurance

- 13.1 All Licence Holders shall have and maintain an insurance policy against public liability and third party risks. A minimum insurance cover of £2 million shall be obtained by the Licence Holder and shall cover the operator's vehicle or stall and any additional equipment under his/her control such as generators etc. If food is sold, the insurance shall specifically cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the Licensing Team before the Street Trading Licence is issued and at any other time on demand during the currency of the licence. This applies to both permanent and temporary licences.

14.0 Renewal

- 14.1 The licence holder must apply to the Council for a renewal at least 14 days prior to the date of the current licence's expiry. If an application for renewal is not received by the expiry date, the licence will lapse.
- 14.2 Reminders will be sent out approximately 3 weeks prior to the expiry of a licence. It will be the duty of the licence holder to ensure that any application for renewal is made at least one week (contradicts paragraph 14.1 which says 2 weeks) prior to expiry to ensure that the licence is continuous. No renewals will be accepted after the expiry date and in such cases any application will be treated as a new application and will undergo the full application process. No trading will be permitted unless a renewed licence has been issued.

14.3 In addition, a new application will be required which will include a renewed consultation period of 28 days plus a potential Panel hearing before the licence may be granted.

14.4 Prospective applicants are most strongly advised to seek the necessary permissions, licences and, where appropriate, planning permissions before making a commitment to any financial outlay and before applying for the Street Trading Licence.

15.0 Miscellaneous Activities

Introduction

15.1 There are a number of other activities that take place in the streets of Hounslow that are not controlled by licence, permits or licences issued by the Council. These activities are listed below.

15.2 Some of the types of trade that are legally exempt from the need to obtain a Street Trading Licence include:

- a person trading under the authority of a Pedlar's Certificate granted under the Pedlars Act 1871;
- trading as a news vendor within a defined area;
- trade carried out by roundsmen e.g. milkmen.
-

15.3 Street Collections

A permit is required by anyone collecting money or selling articles for charitable purposes in a public place and it is an offence to hold a collection without one. Permits are issued in London by the Commissioner of Police. The rules governing their issue and the conduct of collections are contained in regulations made by the Secretary of State.

15.4 House to House Collections

A licence is required by anyone collecting money or selling articles from door to door, shop to shop, pub to pub, etc. for charitable purposes and it is an offence to hold a collection without one.

15.5 In the Metropolitan Police District licences are issued by Charities, TP HQ Room 443, Victoria Embankment, Westminster, London SW1A 2JL. Telephone: 0207-321-7129.

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- 15.6 The rules governing the issue of House to House Collection Licences are contained within the House to House Collection Act 1939 and the House to House Regulations 1947, copies of which may be available from your local library. The Act and the regulations should be read carefully.
- 15.7 They **MUST** be fully complied with by anyone promoting or taking part in a house to house collection as failure to do so is an offence which may result in prosecution.
- 15.8 **Petitions**
People or organisations may ask members of the public to support their cause, such as political groups, welfare or ecological groups. Every person enjoys the right to freedom of speech and the Council will only take action if it receives complaints about disorder or threat to public safety. In such cases the Police will be notified.
- 15.9 **Leaflet Distribution**
If as part of an event there is a consideration in handing out leaflets, then the applicant should consider that every piece of dropped litter could receive an individual fine and additionally prosecution in extreme cases.
- 15.10 Arrangements should be in place for any dropped leaflets to be picked up. One of the best ways to avoid this is to make leaflets worth retaining by attaching special offers or making leaflets available for the public to pick one up if they wish rather than placing them in their hands directly.
- 15.11 Failure to clear up after an event may impact negatively on any future applications.
- 15.12 **Market Research**
This type of activity includes mail order companies, insurance companies and national questionnaires.
- 15.13 **Pedlars**
They are required to hold a certificate issued by the police force in the area in which they reside. They are able to travel to trade within the area. They must only stop to trade when approached by a customer. They must not remain stationary after the sale has been made.
- 15.14 **Busking**
If a busker or a group of buskers act in such a way as to cause a nuisance to passers by, then they will be asked to cease and leave the area.
- 15.15 The Council may call for assistance from the Metropolitan Police when dealing with such issues.

Appendix i

**FIXED PENALTIES UNDER THE LONDON LOCAL AUTHORITIES ACT
2004 RELATING TO STREET TRADING**

Legislation	Section	Description of Offence	Amount of Fixed Penalty
London Local Authorities Act 1990	34(1)	Contravention of condition of street trading licence or temporary licence	£150
	34(2)	Making false statement in connection with application for street trading licence or temporary licence	£100
	34(3)	Resisting or obstructing authorised officer	£150
	34(4)	Failure to produce street trading licence on demand	£50
	38(1)	Unlicensed street trading	£150

Appendix ii

Pre – Licensing Conditions

- All applicants for a new Street Trading Licence must submit at time of application proof of either ownership of the land, site or premises or written proof that they have obtained the permission of the owner of the land, site or premises to trade from that location.
- Applicants are required to submit three passport size photographs (one endorsed with the printed name and signature of the applicant)
- In relation to stalls a further set of three photographs (endorsed as above) along with the names and addresses of all persons to be employed or otherwise engaged at the stall shall be submitted with the application
- In relation to shops (including pavement cafes) a list of the names of all persons to be employed or engaged at the premises must be provided at time of application
- If planning permission is required, this must be sought and obtained prior to submission of any application.

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- In relation to shops and cafes, a notice of application for a new or renewal of a street trading licence must be displayed in the window of the premises to which it relates, in such a manner so as to be clearly visible from the outside. Such notice must be at least A4 in size and will be displayed for a period of not less than 28 days from the date of application.
- Licence Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £2,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Licence is issued. The policy is not required to be established prior to determination of the application, however, proof of cover must be produced to an officer of Hounslow Council as required and in any event prior to issue of any licence that is granted.
- A Licence does not relieve the holder, or any person employed to work on the stall, of any obligation to comply with all other general and local legislation, and in particular the Road Traffic Acts; the Food Safety Act 1990; the Town and Country Planning Acts; the Control of Pollution Act 1974; the Environmental Protection Act 1990; the Licensing Act 2003; any Orders or Regulations made there under; and local Byelaws. It shall be the obligation of the holder to familiarise themselves and their employees with any such legislation.
- An applicant for the new grant of a Street Trading Licence site shall provide a copy of a map showing all streets and other public areas within a radius of half a mile from the proposed location of the Street Trading site. The maps should be proper ordnance survey maps, or of equivalent or similar standard, of A4 size to a scale of 1:2500, and shall clearly indicate the location of the proposed street trading site in the centre of the map.
- The map must also indicate the locations of other street traders and outlets trading in similar commodities to those proposed.
- Any use of electricity and water supply must be notified to the licensing authority at time of application providing full details of the source of the supply and any safety areas to be incorporated.
- A suitable commercial waste contract must be entered into for the clearance of any waste or refuse from the trading site. Details of this contract must be provided at time of application and it shall be maintained throughout the period of the licence. Applicants will not be expected to finalise such contract prior to determination of their application, however, proof will be required prior to the issuing of any licence that is granted to them.
- If any applicant believes that a trade waste contract is not required, this must be stated at the time of application, with written reason as to why

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it is not required. The Licensing Authority will make determination on an individual basis.

- There is a requirement that any business engaged in the sale of food must register with the food safety team in the authority area where the food is usually stored.
- Any person engaged in running a business that involves the sale of food must provide a certificate to show that they have completed a food hygiene training course equivalent to level 2 award in Food Safety and Catering.
- The land from which you intend to trade may require planning permission for such use. It is your responsibility to check with the Council's Planning Department prior to applying for a Licence.

STREET TRADING CONDITIONS

STANDARD CONDITIONS FOR TEMPORARY STREET TRADING LICENCES

- For streets with footways and carriageways, the maximum width of any licensed area shall not exceed one third of the useable width of the footpath.
- A minimum unobstructed footpath width of 1.8 metres must be left clear and available and free from obstruction to allow for safe and convenient pedestrian movement. The distance in this respect is to be measured from the edge of the licensed area to any significant amount of street furniture (such as lamp posts, bollards, parking meters, fences etc) or to the kerbside or edge of the road in the absence of any street furniture as described. Where there is heavy pedestrian flow, additional footpath space may be required.
- In respect of fully pedestrianised streets, a minimum width of 1.8 metres or two thirds of the total width of the public highway (whichever is the greater) must remain free and unobstructed to facilitate pedestrian movement. Where there is heavy pedestrian flow, additional footpath space may be required. The unobstructed route shall fall equally either side of the centre line of the footway to ensure the space available for any permitted display, or in the case of

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pavement café licences, tables and chairs, is shared equally between premises on either side of the street.

- Only the licensed and designated area shall be used for any form of display, tables and chairs or trading at any time.
- In respect of pavement café licences, only tables, chairs and umbrellas associated with those tables and chairs shall be placed within the designated area. No other furniture of any description, other than litter receptacles shall be placed within the designated area.
- In respect of all street trading licences other than pavement café licences, only those tables, stalls, items or displays specifically applied for and authorised on this licence shall be permitted within the designated area. No other furniture of any description, other than litter receptacles shall be placed within the designated area.
- The licence holder shall keep his trading location and the immediate area in a clean and tidy condition during the permitted hours and at the end of each daily period of use. The holder will ensure that appropriate precautions are taken to prevent the highway from becoming littered as a result of trading activity and shall provide a litter bin for their customers where necessary.
- The Licence Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The street trading licence holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition to the satisfaction of an Officer of the Council.
- All displays, tables, chairs and any other structures associated with this licence shall be removed at the end of each trading day.
- Suitable storage for tables, chairs, stalls or any other items associated with the display or pavement café shall be identified by the applicant at the time of application and must be utilised for safe storage of those items at all times when not in use.
- In the case of pavement café's all tables and chairs shall be durable and suitable for outside use. No damaged furniture shall be used at any time.
- In respect of all licences other than for a pavement café all items associated with the display shall be of sufficient quality and strength to be placed outside and shall be capable of withstanding the size, weight and shape of any items placed thereon. There shall be no sharp or jagged edges associated with any part of the display furniture.

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- No display items, tables, chairs, structures or goods associated with the display or pavement café shall be positioned in any way so as to obstruct the sight line of drivers of vehicles in and around the vicinity of the display or pavement café.
- There shall be no playing of music or any amplified sound to any extent that may be perceived as causing a nuisance to neighbouring premises or any other person in the vicinity. The holder shall not use or permit any music playing, music reproducing or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst trading under this Licence, unless varied by a special condition of this Licence.
- No licence holder shall cause or permit a nuisance to be created by noise, smell or any other unreasonable form to be emitted or associated with the licensed pitch or display area in any way.
- No electrical cables, wiring or any other like obstruction, shall be permitted to run along the ground in such a way as to create a trip hazard or which may be susceptible to mechanical damage.
- A Clear pathway of at least 1.1 metres in width shall be maintained at all times, which will allow reasonable egress and access to the shop premises
- In respect of pavement café's, only the provision of refreshments shall be provided at any time, unless otherwise specifically authorised by the licence.
- In respect of all other street trading licences, the display, storage and offer for sale of goods and/or services are only permitted in respect of the item, items or category of merchandise specifically authorised by the licence.
- In the event of a request by a Police Officer, an authorised Officer of the Council or an Officer of a relevant public utility, any tables, chairs, display equipment or goods, shall be removed immediately for whatever period is so required.
- The holder(s) of this Licence (the holder), or any person employed to work on the stall must produce the Licence when required to do so by a Police Officer or a duly authorised officer of Hounslow Council (the Council).
- Planning permission must be obtained prior to the making of any structural alterations to the building or its appearance. This will include the fitting of any electrical signs, canopies or similar
- No fencing walls or boundary markers of any kind shall be installed or erected at any time either in or around the designated trading area, without specific appropriate written authority from the local planning authority or relevant department/organisation.

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- No overhanging structures whether temporary or permanent, shall be permitted to be lower than a height of 2 metres and must at all times be adequately secured. Any such items are subject to permission under condition 19 above.
- The term of the licence shall not exceed 6 months from the date of issue.
- The issue of this licence does not give or imply any permission to supply or sell intoxicating liquor on the street
- Only the goods and/or services agreed by members of the licensing panel at the time of licensing and which are listed on the licence shall be displayed or offered for sale in the outside licensed area at any time. The Licence Holder can only sell goods identified in the Licence to Trade. If he/she wishes to sell different or additional goods, he/she must apply for a new Licence to trade.
- All goods shall be maintained in a reasonable and safe condition at all times.
- Notice of application for a new or renewal of a street trading licence (including pavement café's) must be displayed in the window of the premises to which it relates, in such a manner so as to be clearly visible from the outside. Such notice must be at least A4 in size and will be displayed for a period of not less than 28 days from the date of application.
- If possible, this Licence as issued must be displayed in a clearly visible position where it can be read by prospective customers. If this is not possible the Licence must be available for inspection when requested to do so by a Police Officer or authorised Officer of the Council.
- This licence is not transferable and as such will cease to have effect should the licence holder cease to own or to be employed by the establishment. Unless acting as a Principal Licence Holder, the holder shall not transfer, assign or sublet this Licence, but he may surrender it at any time.
- The granting of this licence, does not remove the right of the Local Authority to consider and if deemed appropriate, enforce any breaches of Highway Law, particularly that legislation relating to the obstruction of the public highway
- The holder shall return this Licence to the Council's Licensing Services immediately on revocation or surrender.
- The holder shall trade strictly in accordance with this Licence.
- The holder shall notify Licensing Services immediately of any convictions or proceedings arising out of the use of this Licence.

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- The holder shall not cause any obstruction of the street or danger to persons using it. The holder shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Licence so as to cause a nuisance, annoyance or danger to any persons lawfully using the street. Trading at the site defined in the Licence to Trade must not cause any risk to public safety and must comply with the conditions detailed in the section of this guide called "Site Assessment".
- The holder shall not place on the street, or affix to any equipment placed on the street, any advertising material, unless varied by a special condition of this Licence.
- The holder shall not fix any equipment, nor make any excavations or indentations in the surface of the street.
- The holder shall not use the street for any trading purpose other than as permitted by this Licence.
- The holder shall not place on the street any furniture or equipment other than that permitted by this Licence. All such furniture or equipment must be maintained in a clean and tidy condition, and must not obstruct the entrance to, or exit from, any premises.
- The holder shall not do anything in the street which may cause danger, nuisance or annoyance, damage or inconvenience to the Council, any adjacent/neighbouring premises, or to members of the public.
- The holder shall not deposit any water or waste product into any street drain or channel, but shall dispose of it in an appropriate place. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade in a certain manner.
- The Licence holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The Licence Holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times. Refuse storage must be provided adjacent to the sale area. The storage must be of a substantial construction, waterproof and animal proof. The trade waste must be removed at the end of each working day or if the amount of refuse warrants it, when the container is full, whichever is the sooner.
- The holder shall indemnify the Council and their agents, servants, workmen etc. from and against all proceedings, damages, claims or expenses in respect of an injury (including personal injury) which may be sustained in connection with the trading pitch and the provision of facilities under this Licence.
- Licence Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £2,000,000 and shall cover the operator's vehicle, or

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stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Licence is issued. Proof of cover must be produced to an officer of Hounslow Council as required.

- The holder must obtain permission from the appropriate authority (where relevant) or the Council's Highways Department and Licensing Manager or Head of Business Regulation, if they wish to utilise electrical power taken from the mains or a generator.
- The Council may revoke this Licence at any time and shall not be liable to pay any compensation to the holder in respect of such revocation.
- The holder, or any person employed to work on the stall, shall **at all times carry with them** the identification card issued by Hounslow whilst trading from the pitch.
- The holder shall return any Council issued identification badges and licences to Licensing Services immediately on revocation or surrender of this Licence.
- The holder shall pay the street trading fees in advance unless an agreement is sought to enable payments to be paid by direct debit.
- This Licence does not relieve the holder, or any person employed to work on the stall, of any obligation to comply with all other general and local legislation, and in particular the Road Traffic Acts; the Food Safety Act 1990; the Town and Country Planning Acts; the Control of Pollution Act 1974; the Environmental Protection Act 1990; the Licensing Act 2003; any Orders or Regulations made thereunder; and local Byelaws. It shall be the obligation of the holder to familiarise themselves and their employees with any such legislation. The Council may revoke this Licence upon any breach.
- The Council will not grant a Street Trading Licence to persons under the age of 17 years and no person employed by a Licence Holder to assist him/her in the street trading shall be under the age of 16 years.
- No trading stall, vehicle etc. is permitted to remain at the locality in question outside the permitted hours unless specified by the terms of the licence. It must be removed at the end of each trading day and not returned until the agreed trading commencement hours the following day. Where a structure is not removed at the end of the trading day, no additional permanent or semi-permanent additions or paving shall be erected or constructed adjacent to the structure for which licence has been granted.
- Trading units/stalls must not be sited in any area other than the site defined by the Licence to Trade. If the Licence Holder wishes to move

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the trading unit to another site he/she must apply for a new Licence to Trade.

- The Licence Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Licence Street for which the Street Trading Licence is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Licence Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.
- Street trading can only be carried out from the stall or vehicle authorised under the conditions of the licence. Any changes to or replacement of the stall or vehicle must be approved by the Head of Business Regulation or Licensing Manager.
- The Licence Holder shall not drive or park a vehicle on any part of a footway. (It is an offence to drive other than on a road)
- Any vehicle used by the licence holder for trading purposes shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate.
- The Licence Holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate must be kept on site to ensure the safety of all gas cooking and heating equipment.
- A serviceable fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food. The Licence Holder must take adequate precautions to prevent the risk of fire at the stall. The use of any portable gas powered equipment is prohibited. The use of generators powered by internal combustion or compression ignition engines is also prohibited.
- All hot food vans/trailers are required to carry a basic first aid kit. The Licence Holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vans should have access to a minimum of one mobile phone that must be serviceable at all times.
- All staff involved in the preparation of food shall hold a current Level 2 food safety certificate that is accredited by the Chartered Institute of Environmental Health, or the Royal Society of Health, or the Royal institute of Public Health and Hygiene.
- A Street Trading Licence cannot be transferred or sold to another person except that the Licence may be transferred to a member of the Licence Holder's immediate family in the event of the Licence Holder's death or incapacity on payment of a fee. The sub letting of a pitch is prohibited. Discuss in relation to permanent stalls.

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- The Licence Holder must be the principal operator and have day to day control of the stall/vehicle. The Licence Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Business Regulation/Licensing Manager of the name and address of that person.
- Anyone who operates a stall/vehicle other than the Licence Holder must be authorised by the Head of Business Regulation/Licensing Manager.
- Licence holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle, stool or trading area.
- All Licence Holders shall take such precautions as necessary to ensure the safety of the public and themselves when carrying out their business. It is advisable to carry out a simple risk assessment to assess any possible risks and take steps to mitigate or eliminate the identified risk. It may be something as simple as a poorly assembled stall or something placed by the stall that someone may trip over. It is advisable to have in your possession a basic first aid kit and one serviceable mobile phone if the emergency services need to be contacted quickly.
- The Licence holder must be the principal operator of the stall and must be physically present at that stall the majority of the time. Occasional help is permissible with prior approval of the Licensing Manager or head of Business Regulation.
- Where LPG fuelled appliances are used the complete gas installation should be examined for soundness at least once per year and the correct operation of each gas appliance, including any safety devices fitted should be checked annually by a competent person who is a member of an organisation approved by the H.S.E. e.g. is registered with the Council for Registered Gas Installers – CORGI. A copy of the competent persons report must be forwarded with the application.
- WC facilities must be made available for staff and members of the public if seating is made available for consumption of food on site. The Licence Holder when operating on a static site shall have access to suitable and sufficient sanitary (toilet) facilities for both the Licence Holder, and any persons employed in the street trading activity. If you are intending to use sanitary facilities belonging to a local business or domestic residence, you must provide written confirmation of that permission with your application form.
- No poster, advertisement, signage or decoration of an unsuitable material or nature shall be displayed, sold or distributed on or about the vehicle or premises. For the purpose of this condition, material is unsuitable if in the opinion of an Officer of the Council authorised under the appropriate legislation, it is indecent, scandalous, offensive or likely to be harmful to any person likely to apprehend it. Material may also be

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considered to be unsuitable if it is of such a nature as to distract motorists driving on the highway.

- All persons selling food shall in addition comply with schedule 1.
- The licence holder must inform the Council of a change in his/her home address during the period of the licence within seven days of such a change taking place.

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Appendix B

PROPOSED FIXED PENALTIES UNDER THE LONDON LOCAL AUTHORITIES ACT 2004 RELATING TO STREET TRADING

Legislation	Section	Description of Offence	Amount of Fixed Penalty
London Local Authorities Act 1990	34(1)	Contravention of condition of Street Trading Licence or Temporary Licence	£300
	34(2)	Making false statement in connection with application for Street Trading Licence or Temporary Licence	£200
	34(3)	Resisting or obstructing authorised officer	£300
	34(4)	Failure to produce Street Trading Licence on demand	£100
	38(1)	Unlicensed street trading	£300