

NOTES FOR THE GUIDANCE OF APPLICANTS & OBJECTORS RELATING TO THE LICENSING OF SPECIAL TREATMENTS PREMISES

THE NEED FOR A LICENCE

1. Southwark London Borough Council has adopted provisions contained in Part II of the London Local Authorities Act 1991 relating to special treatment premises. No premises in the Borough may be used as an establishment for special treatment unless they have been licensed by the Council.
2. "Establishment for special treatment" means any premises in the borough used, intended to be used or represented as being used for the reception or treatment of persons requiring massage, manicure, chiropody, light, electric or other special treatment of a like kind or vapour, sauna or other baths.
3. Exceptions are made in the following cases; these premises are not considered special treatment premises for the purpose of the act:
 - a) any premises which are not used for gain or reward;
 - b) any premises where the special treatment is carried out by or under the supervision of:
 - i) a medical practitioner duly registered by the General Medical Council; or
 - ii) any bona fide member of a body of health practitioners which has given exemption by the London Local Authority Special Treatment Group.
 - iii) in the case of acupuncture, a dentist registered under the Dentists Act 1984;
- c) any premises which are used by a person who is registered by a board under the Professions Supplementary to Medicine Act 1960:
 - i) solely for the practice of the profession in respect of which he or she is so registered;
or
 - ii) for the practice of the profession in respect of which he or she is so registered and for the conduct by him or her of any business ancillary to such practice and no other purpose;
- d) any hospital provided by the Secretary of State or by a National Health Service Trust established under the National Health Service and Community Care Act 1990 or by a charity which is registered under section 4 of the Charities Act 1960 or is exempted from registration by subsection (4) of that section; or
- e) any nursing home which is for the time being registered under Part II of the Registered Homes Act 1984 or exempted from registration under that Part of the Act.

APPLICATIONS

- 4) An application for a licence shall be made on the form provided by the Council and accompanied by the required fee. The Council must consider every application for a special treatment licence.
- 5) The Council may require the applicant for the grant of a special treatment licence to advertise the application by:
 - a) a notice exhibited at the premises concerned for not less than 28 days;
- 6) The notices include brief particulars of the application and how to object. The notice to be exhibited at the premises is supplied to the applicant by the Licensing Unit.
- 7) An applicant must send a copy of his or her application to the local police station in which the premises are situated and to London Fire & Emergency Planning Authority (L.F.E.P.A.)
- 8) The Council's Licensing Unit notifies the applicant of the works required to make the premises suitable for licensing from a point of view of safety. If a licence is granted before these works have been completed, a condition is attached providing that the licence shall not be used until the Council is satisfied about the state of the premises.

RENEWAL OF LICENCES

- 9) A licence does not have to advertise the application for the renewal of a licence. (Although the application must be copied to the police and the L.F.E P.A.)
- 10) Anyone who wishes to object to the renewal of a licence for a particular premises can obtain a date on which the licence will expire, and the date by which an objection must be lodged, from

London Borough of Southwark
Regulatory Services
Licensing Team
Hub 1, 3rd Floor
P.O. Box 64529
SE1P 5LX

Email: Licensing@southwark.gov.uk

TRANSFER AND VARIATION OF LICENCE

- 11) If the owner or occupier of the premises changes, application will need to be made for transfer of the licence. Forms for this can be obtained from the Council. Generally it will not be necessary to advertise such applications but copies of the application must be sent to the police and the L.F.E.P.A.
- 12) At any time the licensee can apply to vary the terms and conditions of the licence, e.g. by changing the types of treatments given. In many cases the Council may require the application to be publicly advertised.

OBJECTIONS

- 13) Any person may object to the grant or renewal of a licence. This is done by giving notice in writing to the Council by either the time limit specified in the advertisement or in the case of a renewal the date set by the Council. The notice of objection must contain reasons for the objection. Provided the objection is in order the Council must take it into account when considering the application.

NOTE: If a petition is submitted, the organiser(s) should ensure that:

- a) The grounds of objection are set out in detail on every page containing signatures;
 - b) names and addresses are CLEARLY LEGIBLE, and preferably written in black (it is helpful if block capitals are used);
 - c) the date(s) on which signatures are collected is stated;
 - d) the names and addresses of the organiser(s) is clearly stated for the purposes of future correspondence.
- 14) Objectors must be prepared to attend an oral hearing in public by a Sub-Committee of the Council.
 - 15) Where an application is opposed, the Licensing Unit usually tries to assist the applicant and the objector to reach agreement so as to avoid the need for the Council to decide the issue between the parties. This is done by sending copies of all the objections to the applicant who is invited to give the Council details of the use which would be made of the premises for which the licence is sought. He is also asked to say what can be done or what assurances can be given which may provide remedies to the envisaged problems.
 - 16) The information supplied by the applicant is forwarded to the objectors by the Licensing Unit with other information which may be helpful to them. The objectors are asked at this time to let the Licensing Unit know whether they wish to proceed with their objections or to withdraw them. Any objector can, of course, ask the applicant for additional information on any point before replying to the Licensing Unit's letter or if preferred, can ask the Licensing Unit to obtain the information.

- 17) Neither the applicant nor the objectors need to take part in the conciliation procedure but it is usually to their advantage to do so.
- 18) If all objections are withdrawn, the application is normally granted, subject to such conditions as are appropriate.
- 19) If the application is withdrawn, all objectors are notified.
- 20) If conciliation fails the application will normally be determined by the Council's Licensing Sub-Committee at an oral hearing in public.

DETERMINATION AT AN ORAL HEARING

- 21) Applicants and objectors are advised that an oral hearing will be arranged, and if possible given three weeks notice of the date of the hearing.
- 22) Hearings are held in public in a room at (to be advised):

GROUNDINGS FOR REFUSAL

- 23) The borough council may refuse to grant, renew or transfer a licence on any of the following grounds :
 - a) the premises are not structurally suitable for the purpose;
 - b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
 - c) the persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence;
 - d) the persons giving the special treatment are not suitably qualified;
 - e) the premises have been or are being improperly conducted;
 - f) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
 - g) the means of heating the premises are not safe;
 - h) proper precautions against fire on the premises are not being taken;
 - i) they are not satisfied as to the safety of equipment used in the special treatment or as to the manner in which the treatment is to be given;
 - j) they are not satisfied as to the safety of the special treatment to be given;
 - k) satisfactory means of escape in case of fire and suitable means for fighting fire are not provided on the premises;

- l) the applicant has, within the period of five years immediately preceding the application to the borough council, been convicted of an offence under this Part of this Act; or
- m) the applicant has failed to comply with the requirements of 4 or 5 of these rules.

APPEALS

24) An applicant who is aggrieved by the Council's decision can in most cases appeal to the Magistrates Court. Either the applicant or the Council can appeal to the Crown Court against a decision by the Magistrates.

CONDITIONS

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

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

DURATION OF LICENCE

26) Licences will be issued for a year and expire on 31 January. It will sometimes be necessary to grant licences for shorter or longer periods (up to the statutory maximum of 18 months) to bring premises into the required renewal period.

POWER OF ENTRY

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

- a) used, represented as being used, or intended to be used as an establishment for special treatment without the requisite licence; or
- b) used in contravention of the terms, conditions or restrictions on or subject to which a licence is granted;

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

PENALTIES

28) Part II of the London Local Authorities Act 1991 prescribes a number of offences. The penalties are as follows:

- a) any person who intentionally obstructs any person acting in the exercise of his or her powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £400;
- b) if any occupier or other person concerned in the conduct or management of premises in the borough uses them as an establishment for special treatment or represents them as being so used or permits the premises to be so used he or she shall, unless the premises are currently licensed by the borough council under this Part of this Act, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1000;
- c) if any premises in respect of which a licence is in force are used as an establishment for special treatment otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held, then the holder of the licence or other person concerned in the conduct or management of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1000.