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|--|---|
| <b>REVIEW OF THE MASSAGE AND SPECIAL TREATMENT LICENSING FUNCTION</b>      |   |
| <b>LICENSING COMMITTEE</b><br><br><b>16 JANUARY 2019</b>                   | <b>CLASSIFICATION:</b><br><br><b>Open</b><br><br><b>If exempt, the reason will be listed in the main body of this report.</b> |
| <b>WARD(S) AFFECTED</b><br><br><b>All Wards</b>                            |   |
| <b>GROUP DIRECTOR, NEIGHBOURHOODS AND HOUSING</b><br><br><b>KIM WRIGHT</b> |   |

## **1. INTRODUCTION**

- 1.1 This report has been prepared to provide the Licensing Committee with information and an update on the reform of the Massage and Special Treatment licensing function.

## **2. RECOMMENDATION(S)**

### **2.1 The Licensing Committee is asked:**

- (i) to note the contents of the report and the Appendices**
- (ii) to approve the proposed changes to the Massage and Special Treatment licensing function**

## **3. BACKGROUND**

- 3.1 Licensing of massage and special treatment (“MST”) is a discretionary power under the London Local Authorities Act 1991. Persons and/or businesses carrying on these types of activity have required authorisation from the Council following adoption of the provisions under Act in the mid-nineties.
- 3.2 “Massage and special treatment” include any beauty treatment that involves massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light treatments, electrical treatments and other similar treatments. It also includes saunas, steam rooms and other baths.
- 3.3 The Licensing Service accords to the list of treatments determined by the ‘Special Treatment Group’. This is made up of representatives from the majority of the 32 London Boroughs and meets approximately once a quarter.
- 3.4 A list which details the treatments defined is attached as Appendix 1.

## **4. PURPOSE OF THE REVIEW**

- 4.1 The Licensing Service have sought to review the MST licensing function with a view to:
- Simplifying the process for applicants by reviewing and updating the various elements of the function
  - Review and update the local regulations and guidelines
  - Allow flexibility for persons wishing to carry on activities on a temporary basis
  - Reduce red tape
  - Update the fee structure
  - Ensure the function is consistent with the European Services Directive 2009 and the Provision of Services Regulations 2009
  - Reduce the number of submissions made offline and reintroduce an online application process
  - Align the application processes with the forthcoming ‘Business Launchpad’ and ‘Business Landing Pad’ which will seek to make it easier to start up and grow businesses in the Borough.

## 5. CURRENT APPLICATION PROCESSES

5.1 Streamlining the process enables officers to eliminate multiple site visits by various regulatory service areas thereby increasing overall efficiency. It will also allow officers to continue to deliver high quality services to residents and visitors in an increasingly challenging economic climate.

5.2 The table below sets out the documentation currently required for the various application types submitted to the Licensing Service.

| Type                                 | Application requirements   | Consultees<br><i>*Indicates a statutory consultee</i>  |
|--------------------------------------|--|--|
| New premises licence                 | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Electrical Installation Certificates. (Dated within 5 Years of Application)</li> <li>• Emergency Lighting Test Certificate. (Dated within 1 Year of Application)</li> <li>• Proof of a minimum £ 2,000,000 Public Liability Insurance.</li> <li>• Fire Extinguisher/Hand Fire Equipment Test Certificate. (Dated within 1 Year of Application)</li> <li>• Fire Alarm Test Certificate. (Dated within 1 Year of Application)</li> <li>• Gas Safety Certificate. (If applicable) (Dated within 1 Year of Application)</li> <li>• Trade waste agreement/Waste transfer note. (Dated within 1 Year of Application)</li> <li>• Clinical waste agreement. (If applicable) (Dated within 1 Year of Application)</li> <li>• 2 copies of floor plans.(Scale 1:100 or 1:150)</li> <li>• Proof of Planning permission</li> </ul> | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> <li>• Environmental Health</li> <li>• Environmental Protection</li> <li>• Planning</li> <li>• Building Control</li> <li>• Pollution/Waste</li> </ul> |
| Renewal of existing premises licence | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Electrical Installation Certificates. (Dated within 5 Years of Application)</li> <li>• Emergency Lighting Test Certificate. (Dated within 1 Year of Application)</li> <li>• Proof of a minimum £ 2,000,000 Public Liability Insurance.</li> <li>• Fire Extinguisher/Hand Fire Equipment Test Certificate. (Dated within 1 Year of Application)</li> <li>• Fire Alarm Test Certificate. (Dated within 1 Year of Application)</li> <li>• Gas Safety Certificate. (If applicable) (Dated within 1 Year of Application)</li> </ul>  | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> <li>• Environmental Health</li> <li>• Environmental Protection</li> <li>• Planning</li> <li>• Building Control</li> <li>• Pollution/Waste</li> </ul> |

| Type                                   | Application requirements   | Consultees<br><i>*Indicates a statutory consultee</i>  |
|--|--|--|
|  | <ul style="list-style-type: none"> <li>• Trade waste agreement/Waste transfer note. (Dated within 1 Year of Application)</li> <li>• Clinical waste agreement. (If applicable) (Dated within 1 Year of Application)</li> </ul>  |  |
| Variation of existing premises licence | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Electrical Installation Certificates. (Dated within 5 Years of Application)</li> <li>• Emergency Lighting Test Certificate. (Dated within 1 Year of Application)</li> <li>• Proof of a minimum £ 2,000,000 Public Liability Insurance.</li> <li>• Fire Extinguisher/Hand Fire Equipment Test Certificate. (Dated within 1 Year of Application)</li> <li>• Fire Alarm Test Certificate. (Dated within 1 Year of Application)</li> <li>• Gas Safety Certificate. (If applicable) (Dated within 1 Year of Application)</li> <li>• Trade waste agreement/Waste transfer note. (Dated within 1 Year of Application)</li> <li>• Clinical waste agreement. (If applicable) (Dated within 1 Year of Application)</li> </ul> | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> <li>• Environmental Health</li> <li>• Environmental Protection</li> <li>• Planning</li> <li>• Building Control</li> <li>• Pollution/Waste</li> </ul> |
| Transfer of premises licence           | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Proof of a minimum £2,000,000 Public Liability Insurance.</li> </ul>  | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> </ul>  |
| Exempt premises licence                | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Proof of valid membership</li> <li>• Qualifications</li> </ul>  | <ul style="list-style-type: none"> <li>• Validation of membership via body</li> </ul>  |
| MST Practitioner licence               | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Qualifications</li> </ul>   | <ul style="list-style-type: none"> <li>• Police</li> </ul>   |
| Exempt MST practitioner licence        | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Proof of valid membership</li> <li>• Qualifications</li> </ul>  | <ul style="list-style-type: none"> <li>• Validation of membership via body</li> </ul>  |

## 6. PROPOSED APPLICATION PROCESSES

6.1 The Licensing Service proposed to base the function on 'Category A' and 'Category B' activities. Essentially, 'Category A' activities carry an increased

risk to public safety. These are activities such as tattooing, tanning and lasers/intense pulsed light (IPL) which need increased officer involvement due to routine inspections and monitoring.

6.2 'Category B' activities such as manicure, pedicure and sauna carry a lesser risk, however do still require inspections and monitoring.

6.3 The proposed streamlined application processes designed to make application processes far less burdensome. Application requirements are outlined in the table below:

| Type                                   | Application requirements   | Consultees  |
|--|--|---|
| New premises licence                   | <ul style="list-style-type: none"> <li>• Application form</li> <li>• 1 copy of floor plan. (Scale 1:100 or other agreed scale)</li> <li>• Fire Risk Assessment</li> <li>• Local Rules documentation provided by a registered Laser Protection Advisor (for activities involving laser/IPL only)</li> </ul> | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> <li>• Environmental Health</li> </ul> |
| Renewal of existing premises licence   | <ul style="list-style-type: none"> <li>• Application form</li> </ul>   | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> <li>• Environmental Health</li> </ul> |
| Variation of existing premises licence | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Any additional documentation in relation to variation of treatments/activity on the premises. E.g. (Qualifications/Plans)</li> </ul>  | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> <li>• Environmental Health</li> </ul> |
| Transfer of premises licence           | <ul style="list-style-type: none"> <li>• Application form</li> </ul>   | <ul style="list-style-type: none"> <li>• Police*</li> <li>• London Fire Brigade*</li> <li>• Environmental Health</li> </ul> |
| Exempt premises Registration           | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Proof of valid membership</li> <li>• Qualifications</li> </ul>  | <ul style="list-style-type: none"> <li>• Validation of membership via body</li> </ul>                                       |
| MST Practitioner Registration          | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Qualifications</li> </ul>   | <ul style="list-style-type: none"> <li>• Police</li> </ul>  |
| Exempt MST practitioner Registration   | <ul style="list-style-type: none"> <li>• Application form</li> <li>• Proof of valid membership</li> <li>• Qualifications</li> </ul>  | <ul style="list-style-type: none"> <li>• Validation of membership via body</li> </ul>                                       |

## **MST Practitioners**

- 6.4 In addition to the licensing of premises, any individual person who physically carries out any of the functions listed in Appendix 1 require registration. Currently, this registration will allow the practitioner to work at any premises licensed by the Council for a period of three years.
- 6.5 The Licensing Service are proposing only minor changes to this established activity. This is mainly to clarify that a person is “registered” as a practitioner rather than “licensed” and some other minor changes to the application requirements.

## **Exemptions**

- 6.6 Provisions under Part II, Section 4 of the Act enables members of recognised Professional Bodies to be register to be exempted from the various application requirements. Historically, the Licensing Service has not charged any fee to persons seeking to register. However, two new fees for both exempt premises and exempt practitioners will be introduced to enable cost recovery of this activity.

## **Temporary activities**

- 6.7 The Licensing Service propose to introduce a new system of temporary licensing. This will enable an operator to apply for and be granted a short term licence not exceeding 3 months. This new process will further support and offer flexibility to businesses by removing the need for a full 12 month licence whilst maintaining public safety.

## **7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES**

- 7.1 This report provides the Licensing Committee with an update on the reform of the Massage and Special Treatment licensing function. The report also proposes a new fee structure for implementation on 1st April 2019 (Appendix B).
- 7.2 The Licensing service has reviewed staff hours employed in administering each type of application. The service has proposed a fee structure intended to achieve full cost recovery for each fee category.
- 7.3 Two new fees for both exempt premises and exempt practitioners will be introduced to enable cost recovery for this activity, and there will be new fees for change of details and duplicate document requests.
- 7.4 The service forecasts to receive £55,000 in 2018/19 and at least this amount 2019/20, as there will new charges for the cost of administrative services not previously recovered. The total income received will be dependent on the number of licenses in each category.

## **8. COMMENTS OF THE DIRECTOR OF LEGAL SERVICES**

- 8.1 This report is seeking to amend the processes and procedures for the *Licensing of massage and special treatment ("MST")*, which is discretionary power under the *London Local Authorities Act 1991 ("the Act")* that the Council have adopted.
- 8.2 Sections 6 and 7 of Part II of the Act enables the Council to prescribe the processes and procedures along with any conditions when considering and determining any such applications made under this Act.
- 8.3 Section 6(4) of the Act enables the Council to approve an MST licence for any period not exceeding 18 months before having to be renewed.
- 8.4 The Council's constitution has reserved the functions for considering and determining applications under this Act to the Licensing Committee.
- 8.5 Reference is made to the European Services Directive. Article (42) of the Directive states; "The rules relating to administrative procedures should not aim at harmonizing administrative procedures but at removing overly burdensome authorisation schemes, procedures and formalities that hinder the freedom of establishment and the creation of new service undertakings therefrom." This report is seeking to make changes in line with the Directive.

## **APPENDICES**

Appendix 1 – List of Special Treatments

Appendix 2 – Current and Proposed Fee Structure

Appendix 3 – Proposed fee structure

## **EXEMPT**

Not applicable.

## **BACKGROUND PAPERS**

None

|  |   |
|--|---|
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## **APPENDIX 1 – CURRENT LIST OF SPECIAL TREATMENTS**

### **Massage Type Treatments**

|             |              |              |                |
|-------------|--------------|--------------|----------------|
| Massage     | Reflexology  | Aromatherapy | Shiatsu        |
| Acupressure | Body Massage | Qi Gong      | Sports Massage |
| Tui-Na      |              |              |                |

### **Electrical Treatments**

|                       |               |                |                      |
|-----------------------|---------------|----------------|----------------------|
| Infra red             | Sun beds      | Lasers         | Faradic              |
| Galvanic              | Sarogenics    | Cathodermly    | Electrolysis         |
| Spider veins          | Sclerotherapy | Vacuum suction | Ultra high frequency |
| Thread vein treatment |               |                |                      |

### **Water Treatments**

|         |            |                |               |
|---------|------------|----------------|---------------|
| Sauna   | Floatation | Steam bath     | Steam chamber |
| Jacuzzi | Spa bath   | Fish Pedicures |               |

### **Other Treatments**

|               |                    |                  |                |
|---------------|--------------------|------------------|----------------|
| Chiropody     | Manicure           | Acupuncture      | Oxygen Therapy |
| Osteopathy    | Pedicure           | Moxibustion      | Tattooing      |
| Body piercing | Nail extension     | Facials          | Tattoo Removal |
| Beading       | Micro-pigmentation | Bio Skin Jetting |                |

This list is not exhaustive and is updated with new treatments from time to time.

## APPENDIX 2 – CURRENT FEE STRUCTURE

|  |  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
|--|--|----------|----------|----------------------|----------|---------|------------------|------------|-------------------|---------------|-------------|----------|---------------------|-----------|-----------|----------------------|------------|-------------------|-------------|-----------|-------------|---------------|--|
| <p><b><u>BEAUTY / THERAPY TREATMENTS</u></b></p> <table border="0"> <tr> <td>Facials</td> <td>Sun Beds</td> </tr> <tr> <td>Manicure</td> <td>Ultra Violet Tanning</td> </tr> <tr> <td>Pedicure</td> <td>Jacuzzi</td> </tr> <tr> <td>Nail Extension s</td> <td>Steam Bath</td> </tr> <tr> <td>Ear Piercing Only</td> <td>Steam Chamber</td> </tr> <tr> <td>Reflexology</td> <td>Spa Bath</td> </tr> <tr> <td>Indian Head Massage</td> <td>Flotation</td> </tr> <tr> <td>Chiropody</td> <td>Ultra High Frequency</td> </tr> <tr> <td>Osteopathy</td> <td>Faradic/ Galvanic</td> </tr> <tr> <td>Acupuncture</td> <td>Infra-Red</td> </tr> <tr> <td>Moxibustion</td> <td>Fish Pedicure</td> </tr> </table> <p><b>Please note this list is not exhaustive as new treatments are continually coming into force</b></p> | Facials  | Sun Beds | Manicure | Ultra Violet Tanning | Pedicure | Jacuzzi | Nail Extension s | Steam Bath | Ear Piercing Only | Steam Chamber | Reflexology | Spa Bath | Indian Head Massage | Flotation | Chiropody | Ultra High Frequency | Osteopathy | Faradic/ Galvanic | Acupuncture | Infra-Red | Moxibustion | Fish Pedicure | <p><b>Up to 2 operatives:</b></p> <ul style="list-style-type: none"> <li>• <b>Part A Fee: £387</b></li> <li>• <b>Part B Fee: £48</b></li> </ul> <p><b>3 - 5 operatives:</b></p> <ul style="list-style-type: none"> <li>• <b>Part A Fee: £396</b></li> <li>• <b>Part B Fee: £49</b></li> </ul> <p><b>Over 5 operatives:</b></p> <ul style="list-style-type: none"> <li>• <b>Part A Fee: £409</b></li> <li>• <b>Part B Fee: £51</b></li> </ul> |
| Facials  | Sun Beds   |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Manicure   | Ultra Violet Tanning   |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Pedicure   | Jacuzzi  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Nail Extension s   | Steam Bath   |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Ear Piercing Only  | Steam Chamber  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Reflexology  | Spa Bath   |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Indian Head Massage  | Flotation  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Chiropody  | Ultra High Frequency   |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Osteopathy   | Faradic/ Galvanic  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Acupuncture  | Infra-Red  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| Moxibustion  | Fish Pedicure  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| <p><b><u>FULL BODY MASSAGE &amp; SAUNA</u></b></p> <p>Full Body Massage is defined as the manual massage of any part of the body, other than the neck and head, the feet and legs below the knee, or the hands and arms</p>  | <ul style="list-style-type: none"> <li>• <b>Part A Fee: £449</b></li> <li>• <b>Part B Fee: £56</b></li> </ul>  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| <p><b><u>TATTOOING AND BODY PIERCING</u></b></p>   | <ul style="list-style-type: none"> <li>• <b>Part A Fee: £475</b></li> <li>• <b>Part B Fee: £58</b></li> </ul>  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| <p><b><u>LASER / INTENSE PULSED LIGHT</u></b></p>  | <p><b>Up to 2 operatives:</b></p> <ul style="list-style-type: none"> <li>• <b>Part A Fee: £583</b></li> <li>• <b>Part B Fee: £72</b></li> </ul> <p><b>3 – 5 operatives:</b></p> <ul style="list-style-type: none"> <li>• <b>Part A Fee: £592</b></li> <li>• <b>Part B Fee: £73</b></li> </ul> <p><b>Over 5 operatives:</b></p> <ul style="list-style-type: none"> <li>• <b>Part A Fee: £605</b></li> <li>• <b>Part B Fee: £75</b></li> </ul> |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |
| <p><b><u>VARIATION OF LICENCE</u></b></p>  | <p><b>Beauty salon only:</b></p> <ul style="list-style-type: none"> <li>• <b>Part A Fee: £127</b></li> <li>• <b>Part B Fee: £8</b></li> </ul>  |          |          |                      |          |         |                  |            |                   |               |             |          |                     |           |           |                      |            |                   |             |           |             |               |  |

|  |   |
|--|---|
|  | <p><b>Massage, Tattoo, Body Piercing, Sauna, Lasers &amp; IPL:</b></p> <ul style="list-style-type: none"> <li>• Part A Fee: £150</li> <li>• Part B Fee: £9</li> </ul>   |
| <p><b><u>TRANSFER OF LICENCE</u></b></p>           | <p><b>Beauty salon only:</b></p> <ul style="list-style-type: none"> <li>• Fee: £135</li> </ul> <p><b>Massage, Tattoo, Body Piercing, Sauna, Lasers &amp; IPL:</b></p> <ul style="list-style-type: none"> <li>• Fee: £150</li> </ul> |
| <p><b><u>EXEMPTION OF PREMISES</u></b></p>         | <p><b>Fee: £0 (Nil)</b></p>   |
| <p><b><u>MST PRACTITIONER</u></b></p>              | <p><b>Fee: £100 (Nil)</b></p>   |
| <p><b><u>EXEMPTION OF MST PRACTITIONER</u></b></p> | <p><b>Fee: £0 (Nil)</b></p>   |

### APPENDIX 3 – PROPOSED FEE STRUCTURE

| Application type   | Licence Category | Proposed fee |
|--|------------------|--------------|
| New MST Application  | A                | £657.00      |
| Renewal MST Application  | A                | £558.00      |
| New/ MST Application   | B                | £488.00      |
| Renewal MST Application  | B                | £415.00      |
| Transfer of MST Licence Application                            | N/A              | £117.00      |
| Variation of MST Licence Application                           | N/A              | £143.00      |
| Temporary Licence (3 months)                                   | A                | £273.00      |
| Temporary Licence (3 months)                                   | B                | £208.00      |
| MST Practitioner Registration                                  | N/A              | £117.00      |
| Exempt Practitioner Registration                               | N/A              | £27.00       |
| Exempt Premises Registration                                   | N/A              | £68.00       |
| Duplicate Document Request                                     | N/A              | £18.00       |
| Change of Details (licensee name/address etc)                  | N/A              | £27.00       |
| Change of Details<br>Add/remove practitioners named on licence | N/A              | £27.00       |