Notice of Meeting

LICENSING AND REGULATORY COMMITTEE

Wednesday, 6 February 2019 - 7:00 pm
Council Chamber, Town Hall, Barking

Members:  Cllr Moin Quadri (Chair); Cllr Lee Waker (Deputy Chair); Cllr Toni Bankole, Cllr Peter Chand, Cllr Kashif Haroon, Cllr Amardeep Singh Jamu, Cllr Mohammed Khan, Cllr Giasuddin Miah, Cllr Adegboyega Oluwole and Cllr Glenda Paddle

Date of publication: 29 January 2019

Chris Naylor
Chief Executive

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AGENDA

1. Apologies for Absence

2. Declaration of Members' Interests

In accordance with the Council’s Constitution, Members are asked to declare any interest they may have in any matter which is to be considered at this meeting.

3. Minutes - To confirm as correct the minutes of the meeting held on 6 February 2018 (Pages 3 - 6)


5. Animal Welfare - Changes to Licensing Legislation (Pages 27 - 34)
6. Special Treatment Regulations (Pages 35 - 60)

7. Applications and Appeals (Pages 61 - 62)

8. Any other public items which the Chair decides are urgent

9. To consider whether it would be appropriate to pass a resolution to exclude the public and press from the remainder of the meeting due to the nature of the business to be transacted.

Private Business

The public and press have a legal right to attend Council meetings such as the Licensing and Regulatory Board, except where business is confidential or certain other sensitive information is to be discussed. The list below shows why items are in the private part of the agenda, with reference to the relevant legislation (the relevant paragraph of Part 1 of Schedule 12A of the Local Government Act 1972 as amended). There are no such items at the time of preparing this agenda.

10. Any other confidential or exempt items which the Chair decides are urgent
Our Vision for Barking and Dagenham

ONE BOROUGH; ONE COMMUNITY; NO-ONE LEFT BEHIND

Our Priorities

A New Kind of Council

- Build a well-run organisation
- Ensure relentlessly reliable services
- Develop place-based partnerships

Empowering People

- Enable greater independence whilst protecting the most vulnerable
- Strengthen our services for all
- Intervene earlier

Inclusive Growth

- Develop our aspirational and affordable housing offer
- Shape great places and strong communities through regeneration
- Encourage enterprise and enable employment

Citizenship and Participation

- Harness culture and increase opportunity
- Encourage civic pride and social responsibility
- Strengthen partnerships, participation and a place-based approach
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MINUTES OF
LICENSING AND REGULATORY BOARD

Tuesday, 6 February 2018
(7:03 - 8:03 pm)

Present: Cllr Kashif Haroon (Chair), Cllr Hardial Singh Rai (Deputy Chair), Cllr Laila M. Butt, Cllr Faruk Choudhury and Cllr Adegboyega Oluwole

Apologies: Cllr Peter Chand, Cllr Chris Hughes and Cllr Lee Waker

6. Declaration of Members' Interests

There were no declarations of interest.

7. Minutes - 27 July 2017

The minutes of the Board meeting held on 27 July 2017 were confirmed as correct.

8. Sub-Committees - Licensing Sub-Committee Meetings

The Board noted and confirmed for signature by the Chair the minutes of the Licensing Sub-Committee meetings held on:

(i) 9 August 2017
(ii) 27 November 2017
(iii) 5 December 2017
(iv) 8 January 2018

9. Animal Welfare Licensing - Adoption of Standard Licence Conditions

Richard Parkins, Senior Licensing Officer (SLO), Regulatory Services, presented the report and explained that local authorities were responsible, under legislation, for the licensing of a range of ‘animal welfare’ licences including, the licensing of pet shops, animal boarding premises and dog breeding establishments. Each local authority had developed their own conditions over the years and adapted them to each legislation change which had resulted in a lack of consistency of conditions, application and enforcement across the country. To provide better consistency nationally, the Chartered Institute of Environmental Health (CIEH) had worked together with animal welfare and industry experts and organisations to compile model standard licence conditions for each type of licensed premises. The CIEH model conditions provide for the basic minimum standards considered necessary to ensure the health, safety and welfare of animals and to minimise the transmission of disease from animals to humans. The four sets of conditions, attached to the report, as appendices, were an attempt to capture all the good guidance and practice and also produce a consistency of approach across all local licencing authorities.

The SLO explained the animal husbandry aspects of the various acts and how they applied to the proposed licensing conditions, such as the need for a suitable environment, diet, to be able to exhibit normal behaviour patterns, to be house
with, or apart from, other animals, companionship, play, if appropriate socialisation interaction with humans, protection of the animal from pain, suffering, injury and disease. There were also requirements around the age at which an individual could purchase an animal and any person banned from keeping an animal.

The Council issues its animal licences by calendar year, January to December, and was currently in the process of issuing licences for 2018. It was proposed that the conditions should be immediately applicable to any new operations seeking future licences. To enable existing licensed operators time to fully review their establishment and operation and to make any necessary physical alterations or adjustments to working practices, the new conditions should become applicable upon their next renewal in 2019. On the renewal of their licence in January 2018, existing operators would be provided with a copy of the new licence conditions and asked to review their current operations against those new standards. This would give existing licence operators 11 to 12 months to make the necessary changes. Where necessary, or requested, advice would be provided to any licensee in regard to raising standards.

The SLO advised that the Government had recently announced its intention to streamline the administrative processes by introducing one ‘animal activities’ licence, covering dog breeding; cat and dog boarding, selling pets and hiring out horses for riding. Publication of the regulations was anticipated after October 2018 and it was likely these would include separate standards applied for each activity. The phrase ‘animal activities’ was also being proposed to cover activities not associated with any specific premises, such as the online sale of pets. Licensing Officers would report back to the Board as appropriate on any directions or new regulations received from the Government.

The Board discussed a number of issues, including:

- Public consultation had not taken place on the proposed new conditions as this was not a new policy and was about adopting industry best standards.

- Concerns around the risks to human health and safety.

- Separate legislation, regulations and processes that are applied for dangerous, wild or endangered animals and the expert advice that local licensing officers would then utilise, particularly regarding safe storage, handling and husbandry and owner licencing.

- Animal welfare in the home under the Animal Welfare Act.

- Complaints about animal sales and establishment conditions and the support that Trading Standards could provide to the public.

- Need to publicise the new conditions and information on how the public can contact enforcement teams if they have any concerns about a commercial / operation establishment or the storage of dangerous, wild or endangered animals by the public / collectors.

The Board:
(i) Agreed to the introduction of the conditions set out in the report, namely:

(a) Appendix A - Pet shops (CIEH Model Conditions for Pet Vending Licensing 2013 / Pet Animals Act 1951 (as amended)).

(b) Appendix B - Catteries (CIEH Model Conditions and Guidance for Cat Boarding Establishments 2013 / Animal Boarding Establishment Act 1963).


(ii) Agreed that the conditions in (i) above should be applicable:

(a) Immediately to any new operations seeking future licences; and,

(b) To existing licensed operators upon their next renewal in 2019.

(iii) Noted the Government’s future intention to streamline the administrative processes by introducing one ‘animal activities’ licence, and that a further report would be presented to the Board once any new legislation, regulations or guidelines were published.

10. Appeals and Applications

Theo Lamptey, Service Manager Public Protection (SMPP), presented the report, which provided details of all licensing matters dealt with by the licensing team since July 2017, including Temporary Event Notices (TENs), Personal Licence, Premises Licence/ Transfer/ Vary Designated Premises Supervisors (DPS), Special Treatment Licence Applications and other Applications received and processed, and work undertaken with the Tri-borough Policing Police Licensing colleagues.

The SMPP reminded the Board that the Council’s Statement of Gambling Policy (2017 – 2022), which was adopted by Cabinet Minute 58, 14 November 2017, would officially come into effect on 14 February 2018.

The Board discussed a number of issues, including:

- The accredited qualifications for holders of a Personal Licence and Designated Premises Supervisors, the training records kept by establishments and the advice provided to businesses to help them comply with their licence.

- The specific process for TENs licence applications involved consultation with emergency services and local Councillors. Licensing Officers worked in conjunction with other Council services, for example the noise team may also
attend premises and events to monitor noise disturbance.

- Enforcement action continued to be taken against those that failed test purchases or other breaches of licence conditions, including review of licences by the Licensing Sub-Committee.

- The Chair commented that there had been no appeals, so this indicated that the Council was making reasonable decisions.

The Board:

(i) Noted the activities undertaken by the Licensing Team since July 2017; and,

(ii) The Service Manager Public Protection was asked to check that notification of TENS applications was being provided to appropriate ward Councillors.


The Work Programme was noted by the Board.

12. Vote of Thanks

The Chair placed on record his thanks to the Board members and officers for the work they had undertaken over the past year.
MINUTES OF
LICENSING SUB-COMMITTEE
Tuesday, 13 February 2018
(7:00 - 7:43 pm)

Present: Cllr Kashif Haroon (Chair), Cllr Hardial Singh Rai (Deputy Chair) and Cllr Chris Hughes

49. Declaration of Members' Interests

There were no declarations of interest.

50. Licensing Act 2003 - Oltenia, 135 Broad, Street, Dagenham, RM10 9HP - Premises Licence Review

Ms Rachel Taylor, Licensing Support Officer (LSO), introduced the report and explained that on 15 December 2017, the Council’s Trading Standards Service had applied for a review, under Section 51 of the Licensing Act 2003, of the premises licence held by Mrs Ceresella Pituru in respect of the trading premises known as Oltenia, 135 Broad Street, Dagenham, RM10 8PP.

The application for review of the licence was supported by the Council’s Licensing Authority Responsible Officer, Public Health and the Chief Officer of the Metropolitan Police.

The LSO provided the Sub-Committee with the background to the premises including its hours of operation and trading, the licencing history and current conditions and past history of incidents relating to the premises. It was noted that since the grant of the licence to Mrs Pituru there had been several notable incidents involving the premises, which were summarised as:

- On 4 August 2016, Mrs Pituru was fined £350.00 with £750.00 costs by Barkingside Magistrates Court in respect of non-compliant tobacco and alcohol products found in Mrs Pituru’s possession on the licensed premises by Trading Standards Officers.

- On 4 April 2017, Mrs Pituru signed a simple caution relating to potential alcohol duty and licensing offences arising from a visit to the premises by Trading Standards Officers. In doing so, Mrs Pituru made a voluntary contribution of £450 towards investigation costs.

- On 25 May 2017, the premises failed a Trading Standards underage test purchase of alcohol (subject of this review).

- On 8 June 2017, illicit tobacco and alcohol were found upon the premises by Trading Standards Officers (subject of this review).

- On 6 December 2017, during the course of a Housing Standards inspection by Council and Police Officers, a large quantity of suspected illicit cigarettes were found in boxes in a bedroom at the flat above the premises. The case
is currently under investigation.

The Sub-Committee noted that in addition to the public papers there were further details in the private and confidential section of the agenda regarding the ongoing Police investigation.

Mr Vince Searle, Senior Trading Standards Officer, advised that there had been complaints about the sale of non-compliant cigarettes and alcohol (lack of UK health warnings etc, on goods) in the area, which had resulted in Trading Standards undertaking an enforcement check to shops in Broad Street, including Oltenia. Mr Searle stressed the concerns of Trading Standards regarding the amount of non-compliant goods that had been found on the premises, which suggested a clear disregard for the Licensing Objectives, and recommended that the premises licence should be revoked.

The Sub-Committee then heard from Mr John Smith, Licensing Authority Responsible Officer, who shared the significant concerns regarding the operation of the premises in the context of the Licensing Objectives. Mr Smith advised that the Licensing Authority also recommended a revocation of the licence and had also put forward some additional licence conditions, as detailed in the agenda, should the Sub-Committee be minded not to revoke the premises licence.

The Sub-Committee then heard from Ms Jill Williams, Shared Care Coordinator for Public Health, who spoke on the impact of sales of alcohol and tobacco to underage purchasers.

The Sub-Committee also heard the representations from the Chief Officer of the Metropolitan Police, represented by PC Michael Sears. PC Sears stated the Police had serious concerns in relation to the operation of the premises and did not feel that it had been, nor would likely be, managed in such a manner as to meet the licensing objectives. Furthermore, the premises were associated with potential criminal activity through duty avoidance and, for those reasons, the Police were also seeking a revocation of the premises licence.

The Chair then invited Mrs Pituru, the Premises License Holder, to address the Sub-Committee. Mrs Pituru confirmed that she had chosen not to have any representation or support present.

Mrs Pituru stated that she was guilty and accepted that it her fault as she was in charge of the premises. The Chair reminded Mrs Pituru that the hearing was her opportunity to present her case to the Sub-Committee and to explain the events as she saw them. Mrs Pituru responded that she accepted the blame as it had happened in her premises. Mrs Pituru offered no other mitigation as to why the events had occurred and did not give any explanation of any actions or processes put into place which could give comfort that the situation would not recur.

Each party was given the opportunity to put questions to the other parties and to summarise their respective positions.

The Sub-Committee adjourned to discuss the review details, the representations and the appropriate legislation and s.182 guidance before reaching its decision.
DECISION

On reconvening, the Legal Advisor to the Sub-Committee, Mr Scrowther, read out the decision on behalf of the Sub-Committee.

The Sub-Committee gave full credit to Mrs Pituru for admitting the faults. However, despite being given the opportunity to explain how these had arisen and what steps Mrs Pituru had or would take to ensure they would not happen again, Mrs Pituru had merely repeated that she was in the wrong. The Sub-Committee was particularly concerned at the number of separate incidences that had been reported and that more than 23,000 non-compliant cigarettes and a quantity of alcohol had been confiscated.

The Sub-Committee was mindful that revocation could be considered where criminality was identified and it was satisfied that the licensing objectives ‘the prevention of crime and disorder’, ‘public safety’ and ‘the protection of children from harm’ had been consistently breached.

Therefore, based upon the history of the premises and the need to uphold the Licensing Objectives, the Sub-Committee determined to revoke the premises licence for the trading premises known as Oltenia, 135 Broad, Street, Dagenham, RM10 9HP.

The Sub-Committee reminded all parties that they had a right to appeal against the decision to the Magistrates’ Court within 21 days.
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MINUTES OF
LICENSING SUB-COMMITTEE

Monday, 12 March 2018
(7:00 - 7:42 pm)

Present: Cllr Kashif Haroon (Chair), Cllr Hardial Singh Rai (Deputy Chair) and Cllr Peter Chand

51. Declaration of Members' Interests

There were no declarations of interest.

52. Application to Vary Premises Licence - Cafe Hasi, 99 Longbridge Road, Barking IG11 8TD

Ms Rachel Taylor, Licensing Officer (LO), introduced a report relating to an application to vary the current premises licence in respect of Café Hasi, 99 Longbridge Road, Barking, made by Mr Qazim Sokoli, the premises licence holder and Designated Premises Supervisor.

The application sought to extend the restaurant / function room area; move the bar to the back of the restaurant area; build a small platform / stage on the left of the restaurant area; extend the rear external yard; and vary the licensable activity hours. The new licensable activity hours included an additional four days of live music on Monday to Wednesday until 00:30 hours and Thursday 01:00 hours, variations of between 30 and 90 minutes on a number of existing weekday and weekend arrangements (some of which were reductions to current times) and revised Christmas and New Year arrangements.

The LO advised that the application was before the Sub-Committee as valid representations had been received from three Responsible Authorities and four local residents. The representations related to the three licensing objectives of ‘prevention of crime and disorder’, ‘protection of children from harm’ and ‘prevention of public nuisance’. The LO drew Members’ attention to the representations that were appended to the report and extracts were read by the LO and Andrew Martin, LBBD Environmental Health Officer.

The LO confirmed that the representation made on behalf of the Licensing Authority had been withdrawn prior to the meeting as the applicant had accepted the conditions proposed by the Licensing Authority to overcome weaknesses in the current operating schedule in relation to CCTV, staff training, authorisation for alcohol sales, a ‘Challenge 21’ policy and the keeping of a Refusal Book.

In response to questions from the Sub-Committee, the LO advised on the public consultation arrangements for the variation application and clarified that the Council had received no complaints relating to the premises since a noise nuisance issue was resolved in 2014.

Mr Sokoli’s legal representative, Mr Marjit Kang, addressed the meeting and stated that Mr Sokoli was also willing to accept the conditions proposed by the Public Health and Environmental Health Responsible Authorities which related to the
introduction of a ‘Challenge 25’ policy, restrictions on the use of the rear external
yard area beyond 22:00 hours and a range of other noise control measures. Mr
Kang explained that Mr Sokoli had installed soundproofing to the premises
following the noise complaint in 2014 and had already implemented the vast
majority of the latest measures proposed by the Responsible Authorities, with a
panic alarm to be fitted in the premises in due course. Mr Kang also confirmed
that Mr Sokoli would be willing to work with the Police and local residents to help
reduce anti-social behaviour in the area.

In concluding, Mr Kang suggested that the variation application was sensible and
balanced and, in view of Mr Sokoli’s impeccable record at the premises and
acceptance of the proposed additional conditions, should be approved.

The Sub-Committee adjourned to deliberate at 7.20pm and reconvened at 7.38pm.

Decision

The Legal Advisor to the Sub-Committee, Mr Scrowther, read the decision on
behalf of the Sub-Committee.

The Sub-Committee resolved, having considered all the evidence submitted and
the representations made and having regard to the Licensing Act 2003 and its
regulations, the national guidance and the Council’s licensing policy, to approve
the application to vary the premises licence, subject to:

(i) the inclusion of the additional licencing conditions sought by the
Responsible Authorities as referred to in pages 43 to 50 of the committee
agenda papers;

(ii) taking into account the licensing objectives relating to the prevention of
crime and disorder and the prevention of public nuisance, the inclusion of
the following two further conditions:

(a) that no opened containers of alcohol shall be permitted to the front
   exterior of the property; and

(b) that the CCTV system shall cover all appropriate areas of the
   premises, including the rear external yard and the front exterior, to
   the satisfaction of the Licensing Authority.

All parties were reminded that they had a right to appeal against the decision to
the Magistrates’ Court within 21 days.
Present: Cllr Moin Quadri (Chair), Cllr Peter Chand and Cllr Amardeep Singh Jamu

1. Declaration of Members' Interests

There were no declarations of interest.

2. Application to Vary Premises Licence (Licensing Act 2003) - Kings Bull, 2 North Street, Barking IG11 8ET

The Licensing Enforcement Officer presented a report to the Sub Committee in regard to an application, received on 6 June 2018, from OG’s Real Dreams Ltd in respect of the Kings Bull, 2 North Street, Barking.

A copy of the licence application and current licence were appended to the report.

The Sub Committee were advised that the application was to vary the current premises licence to permit the use of the car park area for recorded music and the supply of alcohol until 23:00 daily. At the request of the Metropolitan Police, the applicant had subsequently agreed to reduce the hours applied for to 22:00 daily. As the current licence was conditioned to allow the serving of food and drink outside the premises until 22:00 (condition 33 of the current licence) this meant the only matter to be determined was the playing of recorded music outside until 22:00 daily.

The Licensing Enforcement Officer advised that two representations had been received from interested parties (borough residents) and one from the Environmental Health Officer as a responsible Authority.

The Chair then invited Mr Andrew Martin, Environmental Health Officer, to address the Sub Committee, who advised that:

- That the Noise Team had been contacted 19 times regarding the premises and following visits it was concluded that the noise coming from the premises was not classed as a statutory nuisance; and
- The car park area, where the premises had applied to play amplified music, was only a few metres away from the nearest residential properties and this would cause continuous noise at a low level for long periods meaning residents would have to close their windows to reduce the noise.

The Chair then invited Mr Andrew Boff, a registered speaker, to address the Sub Committee to set out his concerns, which included:

- Current noise levels had on adults and children living in the area;
- Numerous complaints made regarding the premises and his concerns that it was not managed well;
- Anti-social behaviour in the area which could be exacerbated by the requested variation to the licence; and
- A petition had been set up against the premises with over 180 signatures so far.

Mr Valéry Fongang, the applicant and the Designated Premises Supervisor, addressed the Sub Committee advising that he wished to withdraw part of the application relating to playing recorded music outside until 22:00 and therefore sought only to allow food and alcohol to be served outside of the premises to 22:00 daily in the “Car Park Shisha Bar & Grill” area, which was not an area included within the current licence plan.

Mr Fongang also advised that:

- That he felt noise levels would not be significantly increased by extending the serving of food and alcoholic drink to the car park area, without recorded music in the background;
- He was experienced in running a business and engaged with residents regarding complaints; and
- The premises was only open on Fridays and Saturdays.

In response to questions regarding the revised application, Mr Martin advised that the objection from Environmental Health as a responsible authority would be withdrawn as it was only in relation to amplified music, which was now not part of the application.

The Chair then invited all parties to sum up before the Sub Committee retired to deliberate their decision.

**DECISION**

The Sub Committee, in reaching its decision, had regard to the Licensing Act 2003, the statutory guidance issued under Section 182 and the Council’s Licensing Policy.

The Sub Committee considered all the evidence before it, including all written documentation and oral submissions.

The Sub Committee resolved to grant the application (as amended) to permit use of the car park area (known as the “Car Park Shisha Bar & Grill”) area for the supply of food and alcohol until 22:00 daily.
Present: Cllr Moin Quadri (Chair), Cllr Peter Chand and Cllr Giasuddin Miah

3. Declaration of Members' Interests

There were no declarations of interest.

4. Licensing Act 2003-Deuce Lounge, 20-22 London Road, Barking IG11 8AG - Temporary Event Notice

The Council’s Licensing Enforcement Officer, John Smith, introduced a report in respect of a Temporary Event Notice (TEN) application that had been received from Mr Ayodele Oshin, Designated Premises Supervisor of the Deuce Lounge, 20-22 London Road, Barking, seeking to extend the licensable activities at the premises from 03:00 – 05:00 hours on Saturday 29 / Sunday 30 September 2018 and Sunday 30 September / Monday 1 October 2018.

The matter was before the Sub-Committee as an objection to the TEN had been made by the Metropolitan Police in relation to the licencing objectives of preventing crime and disorder and preventing public nuisance. Mr Abiodun Ajay, Premises Licence Holder for the Deuce Lounge, was present to represent the applicant.

In accordance with the procedure for the meeting, the Chair invited PC Michael Sear to outline the Metropolitan Police’s objections. PC Sear explained that there had been two serious incidents of violent disorder during July and August involving individuals who had been in the Deuce Lounge, as well as other incidents in the Town Centre area that the Police believed were linked to patrons of the Deuce Lounge. During the course of the Police investigations, it became apparent that the CCTV system at the premises had not been operating in accordance with the license conditions (retained for at least 31 days) which had hampered the investigations.

PC Sear also advised that in respect of the Sunday night / Monday morning element of the TEN application, there was a gap between the current licensing hours ending and the hours of the TEN commencing. The gap meant that alcohol sales would have to stop at 01:30 hours, patrons would be required to leave the premises at 02:00 hours and not re-enter until 03:00 hours. The Police were, therefore, concerned that patrons being required to wait outside the premises for that 1-hour period could give rise to disorder and nuisance while local residents were asleep ahead of the working day.

The Sub-Committee then heard from Mr Ajay, who stated that the venue had been operating under the current management for four years and was a well-run establishment. Mr Ajay circulated photographs of the interior of the premises showing the layout and furniture, which he felt reflected the type of atmosphere and clientele that the management encouraged. He added that the licence conditions were always applied and the CCTV system issues were quickly rectified.
by an engineer and confirmation provided to the Police that the system was now retaining images for the full 31-day period, having previously retained them for only approximately 15 days.

Mr Ajay acknowledged that there had been fights outside the premises and that some individuals involved had been patrons of the premises at some point although he clarified that the incidents had not taken place inside or directly outside the Deuce Lounge. Mr Ajay stated that problems often stemmed from youths, who had not been patrons of the premises, hanging around James Street and the car park area. Mr Ajay added that he had reported his concerns regarding the groups of youths congregating close to the premises to the Police on several occasions and had been told that the Police were unable to take any action.

Mr Ajay advised that the premises employed four security personnel of a weekend, above the two required under the licence, which reflected how seriously the management took its responsibilities and he had personally called for the ambulance on 12 August having witnessed the incident occurring at the bus stand area further along London Road. Mr Ajay added that he and his security staff could not be held responsible for incidents that took place well away from the premises even if they involved patrons who had left the Deuce Lounge.

Mr Ajay clarified that the TEN was sought as part of Nigerian Independence celebrations and that there would likely be fewer people in the venue than the capacity of 120. He also advised that there had been no complaints from neighbours about noise and that the void period in the TEN application for the Monday was in error and the actual time sought was 01:30 to 05:00 hours on Monday morning.

Members of the Licence Sub-Committee sought clarification of the issues with regard to the CCTV and the extent of the coverage. It was confirmed that the fault had meant that only 15 days of recordings were being kept but the issue had been resolved. Mr Ajay advised that the CCTV cameras covered 24 areas, including the entrances, exits and areas immediately outside. Entrance to the premises was via the front doors (on London Road) and patrons would leave by the rear exit doors (James Street) at the close of business.

The Members of the Licensing Sub-Committee adjourned at 7.25pm to deliberate in private and returned at 7.34pm to announce the decision, which was read by the Legal Advisor to the Sub-Committee, Mr Scrowther.

**DECISION**

The Sub-Committee, having considered all the evidence submitted and the representations made and having regard to the Licensing Act 2003 and its regulations, the national guidance and the Council’s licensing policy, refused the application and resolved that a Counter Notice should be issued.

The Sub-Committee’s primary concern was that the recent incidents of violent disorder, including a stabbing, that the Police had linked to the premises and which formed the basis of the objections had not been addressed in the submissions before it. Furthermore, there were no solutions offered in the application to reduce or limit the risks during the extended hours that were being sought.
With regard to the times applied for and specifically the Monday morning, the Sub-Committee accepted that this was an error on the part of the applicant. However, it noted that as the matter of the licence being extended between 01:30 to 03:00 hours on the Monday morning had not been subject to the required consultation, it was not possible to consider the matter. In respect of that void period on the Monday morning, the Sub-Committee noted that there were no apparent arrangements in place to deal with patrons who would have to leave the premises at 02:00 before re-entering at 03:00 and accepted the Police’s assertion that this could pose a significant risk of public nuisance and disorder issues during that intervening period.

The parties were reminded that there was a right of appeal to the Magistrates Court.
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Present: Cllr Lee Waker (Chair), Cllr Mohammed Khan and Cllr Glenda Paddle

5. Declaration of Members' Interests

There were no declarations of interest.

6. Personal Licence Application - Mr Tomas Zalimas

The Councils Licensing Officer, Rachel Taylor, introduced a report in respect of a personal licence application that had been made by Mr Tomas Zalimas.

The matter was before the Sub-Committee as Mr Zalimas had a conviction for an offence that was listed as a relevant offence under Schedule 4 of the Licensing Act 2003. In this case the conviction was for driving a motor vehicle with excess alcohol.

Mr Zalimas was convicted on 17 August 2017 at Central London Magistrates Court of driving a vehicle with excess alcohol on 30 July 2017 under S.5(1) (A) Road Traffic Act 1988.

The Chair invited PC Michael Sear to address the Sub Committee, setting out objections from the Police. PC Sear advised that the penalty for the conviction was severe and as a result Mr Zalimas was considered not responsible enough to hold a personal licence.

The Chair invited Mr Zalimas to address the Sub-Committee. Mr Zalimas explained to the Sub-Committee that he regretted his actions and had no past record. He was of good character and was career focussed, hoping to be promoted within the hospitality sector once he had received his personal licence.

The Chair then invited all parties present to sum up their representation before the Sub-Committee retired to make its decision.

Decision

The Licensing Sub-Committee had regard to the S. 182 guidance and relevant legislation, and also had regard for the contents of the agenda and for all matters stated in the hearing.

The Sub-Committee resolved not to grant the application as they were not satisfied that the applicant had demonstrated the necessary degree of responsibility in order to satisfactorily hold a personal licence. The conviction involving driving a vehicle with excess alcohol was recent, and at a time when the applicant was clearly anticipating making career advances, and therefore the Sub-
Committee was satisfied that the licensing objective of preventing crime and disorder would be undermined by the granting of the application.

7. **Way 2 Save, 147 Ripple Road, Barking, IG11 7PW - Application to Vary the Premises Licence**

The Service Manager for Public Protection, Mr Theo Lamptey, presented a report to the Sub-Committee in respect of an application to vary the premises licence for Way 2 Save, 147 Ripple Road, Barking.

On 9 October 2018, an application for a variation of a premises licence was received from Mr Murat Alma. The application was to vary the hours of sale of alcohol for consumption off the premises to 07:00 to 02:00 daily with the premises open for the same hours.

The Designated Premises Supervisor (DPS) at the time of the application was Mr Murat Alma and thus was carried on 15 October 2018 to Mr Can Alma.

Mr Lamptey advised that five representations against this application had been received, they were from the three local ward Councillors, the Metropolitan Police and the Licensing Authority. The grounds of objection were the licensing objectives of the prevention of crime and disorder, and the prevention of public nuisance.

The report contained within the agenda detailed the premises operating history from June 2015 through to 7 November 2018.

The Chair invited PC Sear to set out the objections from the Police.

PC Sear addressed the Sub-Committee advising that:

- The premises was known for crime and public nuisance;
- The new DPS had no operating background history, which put the premises at risk;
- The current DPS could not find documents that should have been in place at the premises during a visit such as the staff log book and the refusals book;
- There was alcohol on the premises floor (boxes of lager) that could not be locked up;
- There was no authority paper from the new DPS to show which staff members could sell alcohol;
- No refresher training had been undertaken for staff; and
- Since the hours of the premises had been reduced earlier in the year there was no antisocial behaviour reported by the Safer Neighbour Team for the area.

PC Sear stated that the Police believed there was compliance in providing copies of records for the benefit of the Sub-Committee only and did not believe that the premises licence should be varied due to the continuous non-compliance of conditions.

In response to questions from the Sub-Committee, PC Sear advised that if the
licensure were to be varied, the Police would suggested that a minimum of two door supervisors should be at the premises as when incidents had taken place in the past the door supervisor tended to be on a break.

The Chair then invited the Local Authority Representative, Mr John Smith, to address the Sub-Committee setting out his objections. Mr Smith advised that:

- If the application were to be granted it would undermine the licensing objective of the prevention of crime and disorder;
- The premises had not been compliant with the conditions on its licence; and
- There had been no incidents recorded at the premises since the hours were reduced following a review of the licence in January 2018.

The Chair advised the Sub-Committee that the Ward Councillors who had made representation had not been able to attend the meeting due to ill health. The Chair asked all those present to read and take note of the written objections that were contained within the agenda pack.

The Chair then asked Mr Graham Hopkins, representative for Way 2 Save, to address the Sub-Committee.

Mr Hopkins, speaking on behalf of Mr Murat Alma and Mr Can Alma advised that:

- Way 2 Save was a large convenience store with an off licence;
- Mr Can Alma would like to amend the application to 01:00 daily instead of 02:00 daily and would be happy for the morning hour to be changed to 08:00 instead of 07:00;
- The incidents that had taken place in the last year were after 02:00;
- Mr Murat Alma had spoken to the street drinkers who had been congregating outside of the shop and they had now moved on;
- All staff would now be trained and this would be noted in a staff training log;
- Records that were used by the DPS were at a personal residence the night PC Sear had visited;
- There were professional records kept;
- All of the management team held personal licences;
- Appropriate signage was in place throughout the premises;
- Cans of 6.5% beer were purchased by accident and had now been removed;
- Spirits behind the counter were not locked up at night, however the counter was always manned;
- Fridges containing alcohol that could not be locked had the alcohol removed from them after 23:00;
- Test purchases by Trading Standards had been passed; and
- There were 36 CCTV cameras within the premises;

In response to questions from the Sub-Committee, Mr Hopkins advised that:

- It was a mistake that the beer over 6.5% was being sold;
- There were no street drinkers outside of the premises any more, this reduced the public nuisance levels;
- No residents had objected directly to the application; and
- It was noted that the boxes of beer on the shop floor should be moved as they could not be locked away easily.

The Chair then invited all parties present to sum up their representation before the Sub-Committee retired to make its decision.

**Decision**

The Licensing Sub-Committee had regard to the S. 182 guidance and relevant legislation, and also had regard for the contents of the agenda and for all matters stated in the hearing.

The Sub-Committee **resolved** to refuse the application.

The reason for this was that the Sub-Committee were concerned about the 10 breaches which had been identified by the MPS. No satisfactory explanation was given for each of the breaches, specifically:

a. In respect of sale of beers, perries or cider over 6.5% ABV, the applicant merely stated that this was ‘a mistake’. No explanation was given as to what this mistake was, nor why it wasn’t rectified.

b. In respect of the roller shutters, it was said that the fridge was manned but it was old and not cheap to replace, and arrangements have been put in place to remove the alcohol from the fridge and place in storage after 11:00 p.m.

c. No proper explanation was given as to why relevant staff training and refusal records were kept at the home of the DPS rather than at the premises.

d. No explanation was given as to why these breaches were permitted to subsist despite having been given clear warnings by both the Sub-Committee at the previous occasions and by their licensing advisors.
8. Declaration of Members' Interests

There were no declarations of interest.

9. Licensing Act 2003 - Boozie Call Alcohol Delivery - Chequers Lane Dagenham RM9 6PR Application for new Premises Licence

The Licensing Officer presented a report to the Sub Committee regarding an application for a premises licence.

On 19 November 2018, Kelly Collins applied for a premises licence in respect of the premises known as GSR Self Storage situated at Chequers Road, Dagenham RM6 9PR

The premise was a storage unit measuring 8’ cubed, situated at GSR Self Storage, Chequers Road, Dagenham behind electric dates with 24-hour monitoring and access. Alcohol would be stored at this location and despatched for delivery from it. There would be no public access to the unit.

The applicant sought to deliver alcohol between the hours of: Sunday – Thursday 12:00 - 02:00 Friday – Saturday 12:00 - 05:00. The Designated Premises Supervisor (DPS), intended to hold overall responsibility for authorising alcohol sales made at the premises, was the applicant, Kelly Collins, who held a personal licence issued by the London Borough of Redbridge.

One representation had been received in respect of this application, from the Metropolitan Police. The representation was made under the crime prevention and public nuisance licensing objectives. The Metropolitan Police had asked the applicant to agree to additional conditions and to reduce the hours during which alcohol will be delivered.

The applicant has indicated that she did not wish to restrict the hours of operation to those the Police have requested and did not agree to the conditions the Police request.

The Chair invited PC Sear to address the Sub Committee, setting out objections from the Police. PC Sear advised that:

- The Police believed that without the inclusion of the additional conditions, the application would not meet the licensing objectives of the prevention crime and disorder and the prevention of public nuisance;
- There were concerns that the application, if approved, would encourage residents to order more alcohol when holding parties, meaning the parties would go on longer causing disturbance to neighbours; and
- The proposed closing hours of 05:00 at weekends was considered too late and was not comparable to other premises in the area.

The Chair then invited Ms Collins to address the Sub Committee.

Ms Collins advised that:

- She agreed with most of the additional conditions suggested by the Police, however not conditions five (deliveries can only be collected from the premises, once an order had been placed. No extra stock is to be carried on delivery vehicles) and six (Orders for the delivery of alcohol will only be taken online or by telephone. Payment must be by Credit Card. No Debit card payments will be accepted. Cash on delivery will not be allowed).
- It would be detrimental to business if additional stock could not be carried in the vehicles and that not everyone had access to a credit card;
- Staff would be trained to ensure they did not make noise on delivery, such as turning off engines and calling customers rather than knocking on doors late at night; and
- The proposed hours of operation by the Police were not accepted.

PC Sear advised that the sale of alcohol from a vehicle and not the premises would not be in compliance with the application and therefore would be an unlawful sale. This was noted by Ms Collins.

PC Sear then advised that if Ms Collins was willing to accept proposed condition seven (Upon delivery the credit card must be viewed alongside an accepted challenge 25 identification document), the Police would be willing to remove proposed condition six. It was noted that if accepted, the wording would need to be amended to reflect that a credit card was not a necessity for payment.

The proposal was accepted and Ms Collins advised the Sub Committee that if they were minded to approve the application then she would be willing to reduce the hours of opening to 00:00 Sunday to Thursday and 03:00 Friday to Saturday.

The Chair invited all parties present to sum up their representation before the Sub Committee retired to make its decision.

**Decision**

The Licensing Sub Committee had regard to the s.182 guidance and relevant legislation, and also had regard for the contents of the agenda and for all matters stated in the hearing.

The Sub Committee **resolved** to grant the application, subject to:

(i) the operating hours of the premises be amended to:
   - Sunday to Thursday: 12:00 to 00:00
   - Friday to Saturday: 12:00 to 03:00
(ii) Proposed conditions 1 – 5 and 7 – 21 as set out in the agenda pages 56 – 58, be included on the licence
(iii) Condition 7 be amended to reflect that payment can be taken by debit card, credit card or cash.
10. Licensing Act 2003 - Personal Licence Application - Akim Rowe

The Licensing Officer presented a report to the Sub Committee regarding an application for a personal licence which had been objected to by the Metropolitan Police.

On the 18 December 2018 an application was submitted by Mr. Akim Rowe. The application was accompanied by his certificate of qualification, DBS certificate and his proof of right to work in the UK.

Mr Rowe’s DBS certificate showed that he was convicted on the 27 July 2015 at Ipswich Crown for a number of offences for which he received a custodial sentence. Some were relevant offences under the Licensing Act 2003.

Due to the date of the conviction, and the sentences imposed they could not be considered spent under the Rehabilitation of Offenders Act until January 2023.

The Metropolitan Police had issued an objection notice to this application under the prevention of crime licensing objective.

The Chair invited PC Sear to address the Sub Committee, setting out objections from the Police. PC Sear advised that Mr Rowe had many unspent convictions and as a result Mr Rowe was not considered responsible enough to hold a personal licence.

The Chair advised that Mr Rowe was not present at the meeting and then offered PC Sear the chance to sum up.

Decision

The Sub Committee **resolved** not to grant the application as they were not satisfied that the applicant had demonstrated the necessary degree of responsibility in order to satisfactorily hold a personal licence. The convictions listed were not yet spent and the applicant had not attended the Sub Committee nor made written submissions to address members regarding those convictions, therefore the Sub Committee was satisfied that the licensing objective of preventing crime and disorder would be undermined by the granting of the application.
# LICENSING & REGULATORY COMMITTEE

**6 February 2019**

| **Title:** Animal Welfare - Changes to Licensing Legislation |
| **Report of the Director of Law and Governance** |
| **Open Report** | **For Decision** |
| **Wards Affected:** All | **Key Decision:** No |
| **Report Author:** Theo Lamptey, Service Manager Public Protection | **Contact Details:** Tel: 0208 227 5655  
E-mail: theo.lamptey@lbkd.gov.uk |
| **Accountable Strategic Leadership Director:** Fiona Taylor, Director of Law and Governance |

## Summary

The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018 came into force on 1st October 2018. Under these Regulations the existing licensing schemes for selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs and keeping or training animals for exhibition has been repealed and replaced by a new single licensing scheme that will regulate all these activities.

This report seeks to update the Board on the new Regulations and the key changes brought in to simplify the licensing framework for animal activities.

## Recommendations

The Board is asked to note the implications of the Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018.

## Reasons

To assist the Council in meeting its statutory responsibilities and the priorities:

- Encouraging Civic Pride by providing a welcoming safe and resilient community
- Enabling Social Responsibility by ensuring that there is a fair-trading environment for businesses.
1. Introduction and Background

1.1 On 1 October 2018, the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force. These regulations replaced most of the existing legislation in relation to animal licensing regimes. They introduce a single licensing regime for a number of animal related activities.

1.2 The Department for Environment, Food and Rural Affairs (DEFRA) has drafted the legislation along with application forms, guidance documents and a risk rating system.

1.3 The current legislation which has been replaced are as follows:

- Pet Animals Act 1951 (Pet Shops)
- Animal Boarding Establishments Act 1963
- Performing Animals Act 1925
- Riding Establishments Act 1964
- Breeding of Dogs Act 1973

1.4 Zoos and Dangerous and Wild Animals will continue to be licensed under existing legislation.

1.5 New consistent minimum welfare standards now exist. DEFRA developed these working with stakeholders from the sector, animal welfare organisations, local authorities and veterinary bodies.

1.6 As a local authority we now have the power to vary, suspend or revoke a licence without having taken prior legal action, allowing us to act faster if there are animal welfare issues.

1.7 A risk rating process now exists, this determines if an operator is high or low risk, and then awards a star grading from one to five stars, based on the welfare standards that they achieve and their compliance record. A copy of this matrix is attached as Appendix A.

2. Proposal and Issues

Dog Breeding

2.1 The regulations now deal with concerns about puppy farms producing puppies in high volumes and poor conditions. The definition of dog breeding now including both large and small-scale dog breeders. All businesses involved in breeding and selling dogs will need a licence. In addition, individual breeders will also need a licence if they breed three or more litters a year and sell any of them. Where evidence is provided by the breeder that none of the puppies have been sold, they will not need to be licensed.
Animal Boarding

2.2 Anyone, providing or arranging for the provision of boarding for cats or dogs (including dog day care) will need a licence. The earlier legislation was unclear about new developments such as dog day care. Now there are individual guidance documents and licence conditions for:

- Boarding in Kennels
- Boarding of Cats
- Home Boarding of Dogs
- Day Care for Dogs

2.3 There is no control over the care of dogs and cats where an animal remains cared for within its normal place of residence.

Pet Shops

2.4 Under the new Regulations, all commercial sales require a licence, including those that take place online.

Performing Animals (Keeping and Training Animals)

2.5 Currently, licences are granted for life with no compliance checks after the initial grant. Under the new Regulations, all licences will be granted for three years and will require the registration holders to renew so that their suitability is reevaluated on a tri-annual basis. There is no risk assessment applied to such activities.

Hiring of Horses (Riding establishments)

2.6 This continues largely as before, with new guidance and conditions.

3. Options Appraisal

3.1 Historically there have been very few licences in place for these activities. Currently, in Barking and Dagenham the animal licences are as follows:

- 1 riding establishment
- 1 Cattery
- 1 Home boarding for dogs
- 3 Pet Shops
- 1 Dog Breeding (residential)

3.2 It is possible that some breeders of dogs and possibly some animal sellers who have operated without controls, selling their animals through websites may now require licences, but it is not anticipated that the numbers will be very high. There may also be home boarders of dogs and providers of dog day care that will also need to be licenced. Websites are being monitored to establish any such operators.
3.3 Officers who carry out inspections associated with these licences need to be qualified or suitably experienced. After three years all officers carrying out inspections will have to be qualified. The costs of training an officer or paying a vet to carry out the inspections will be met by the fees charged.

4. **Consultation**

4.1 No formal consultation has been undertaken in the preparation of this report. An impact assessment was undertaken by DEFRA prior to the publication of the Regulations and in their opinion there will be no adverse effect on equality, diversity or human rights of any individual.

5. **Financial Implications**

5.1 The Council has discretion of setting the fees for the animal licensing function which has been incorporated into the Regulatory Service budget for 2019 / 2020.

5.2 The fees structure are split into two parts – Part A and B; Part A is the application fee, payable at the time of submission to cover the Council’s costs in considering and determining the application; Part B is the grant fee, which covers any further costs about granting the licence, enforcement and compliance requirements and other associated costs with running the licensing regime.

5.3 There will an additional burden on the authority, in terms of officer time, in implementing the legislation and making the necessary changes to procedures, database, website, forms, officer training etc.

5.4 Officers will require training to become qualified and competent to conduct inspection of the animal welfare premises when it is made available nationally.

5.5 New fees have been set on a cost recovery basis.

6. **Legal Implications**

6.1 Officers are properly authorised for the purposes of enforcement under this legislation.

6.2 Failure to act appropriately under the legislation will make the Council non-compliant with legislation and prevent appropriate regulatory action being taken to safeguard the welfare of animals in the Council area.

**Public Background Papers Used in the Preparation of the Report:** None

**List of appendices:**

**Appendix 1:** Animal Welfare Risk Scoring Table and Rating Matrix
<table>
<thead>
<tr>
<th>Compliance History - inspections</th>
<th>Low (Score1)</th>
<th>High (Score 2)</th>
<th>Score</th>
<th>Officer Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Documented evidence from formal inspections over the previous three years reveal consistent and high levels of compliance in terms of welfare standards and risk management.</td>
<td>Formal inspections over the previous three years reveal some degree of non-compliance that has required the intervention of the inspector for the business to ultimately recognise and address these. More serious breaches would attract other enforcement action: suspension, revocation, prosecution.</td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Compliance History – follow up action</th>
<th>Low (Score1)</th>
<th>High (Score 2)</th>
<th>Score</th>
<th>Officer Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No evidence of follow-up action by local authority in the last year apart from providing the licence holder with a copy of the inspection report, or sending them a letter identifying some minor, administrative areas for improvement (e.g. minor record keeping issues).</td>
<td>Follow up action by the local authority, such as sending them letters, triggered by low level non-compliance that is not addressed, or the business does not recognise the significance of the need to address the non-compliance.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Compliance History – re-inspection</th>
<th>Low (Score1)</th>
<th>High (Score 2)</th>
<th>Score</th>
<th>Officer Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No re-inspection necessary (apart from standard unannounced inspection) before next planned licence inspection / renewal</td>
<td>Re-inspection necessary to ensure compliance.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Complaint History – complaints to the LA</th>
<th>Low (Score1)</th>
<th>High (Score 2)</th>
<th>Score</th>
<th>Officer Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No complaints received direct to the LA that are justified in relation to welfare standards or procedural issues during the previous three years.</td>
<td>Low level substantiated complaints identifying concerns over the business / licence holder have been received within the previous three years.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Complaint History – complaints to the business</th>
<th>Low (Score1)</th>
<th>High (Score 2)</th>
<th>Score</th>
<th>Officer Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Licence holder records and documents any feedback received directly, in order to demonstrate</td>
<td>Licence holder does not record feedback received directly or</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Risk Scoring Table and ★ Rating Matrix

| appreciation of welfare standards - enrichment | Sound understanding by the licence holder of relevant environmental enrichment applicable to the activity (guided by expert advice), with demonstrated implementation. | Little environmental enrichment present, inconsistently used and its importance not understood or really valued. |
| appreciation of hazards / risks | Licence holder clearly understands their role and responsibilities under the legislation. Hazards to both staff and animals clearly understood, properly controlled and reviewed with supporting evidence where applicable. | Licence holder not fully engaged with their role/responsibilities, lacks time to fulfil role, no system for review and reassessment of hazards to both animals and staff. |
| appreciation of hazards / risks - maintenance | A suitably planned maintenance, repair and replacement program for infrastructure and equipment is in place. | No planned maintenance program. Building, installations and equipment allowed to deteriorate before action is implemented. |
| appreciation of hazards / risks – knowledge and experience | Staff have specialist and appropriate knowledge of the taxa / species that are kept. There is sufficient staff, time and resource for daily, adequate routine monitoring, evidenced through records and staff rotas. | Key staff lack experience / knowledge of the species. Staff appear overburdened and / or unsupported by management, corners being cut. |
| appreciation of hazards / risks – dealing with issues | Clear defined roles / responsibilities of staff, with clear processes for reporting and addressing any identified issues. | Lack of any process, or ownership and responsibility within the business to identify and deal with issues. |
## Risk Scoring Table and ★ Rating Matrix

<table>
<thead>
<tr>
<th>Welfare management procedures – written procedures</th>
<th>Written procedures / policies clearly documented, implemented and reviewed appropriately.</th>
<th>Limited written procedures / policies. No overall strategic control or direction.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Welfare management procedures – supervision of staff</td>
<td>Appropriate supervision of staff evident where applicable.</td>
<td>Inadequate supervision of staff evident on inspection or from the training records.</td>
</tr>
<tr>
<td>Welfare management procedures – record keeping</td>
<td>All required records maintained and made available.</td>
<td>Poor standard of record keeping, records out of date or appear to be being manufactured – relevance of records not appreciated.</td>
</tr>
<tr>
<td>Welfare management procedures - training</td>
<td>Planned training programme for staff to review and assess competency, with documented training records.</td>
<td>Little or no evidence of relevant training or system for review and reassessment.</td>
</tr>
</tbody>
</table>

### Total Score

Score of 17 or less = Low risk
Score of 18 or more = Higher risk.

| Welfare Standards |
|-------------------|-------------------|-------------------|
| Minor Failings    | Minimum standards | Higher Standards  |
| Existing business that are failing to meet minimum standards | As laid down in the schedules and guidance | As laid down in the guidance |

**Low Risk (17 or lower)**

- ★ One-year licence with one unannounced visit within one year
- ★★★ Two-year licence With one unannounced visit within two years
- ★★★★★ Three-year licence With one unannounced visit within three years
Risk Scoring Table and ★ Rating Matrix

| Higher Risk (18 or above) | ★ One-year licence with one unannounced visit within one year | ★★ One-year licence with one unannounced visit within one year | ★★★ Two-year licence With one unannounced visit within two years |

Having carried out an inspection and obtained a risk score from the first table the ★ rating and duration of licence need to be assessed. 17 or lower is low risk, 18 or higher is higher risk. The inspection is carried out using the risk scoring table above and the appropriate DEFRA guidance notes for the activity being inspected. These guidance notes set out what the minimum standards are and what the higher standards are, with the higher standards set out in blue. There are additional measures that can be taken over and above the blue ones. These are in red and are optional. Attainment of the optional standards does not lead to a higher ★ rating.

The score from the first table and the level of standards achieved lead to the ★ rating as above. Both the risk scoring table and ★ rating matrix are designed by DEFRA and form part of their published guidance.

An operator applying for a new licence will automatically be placed into the higher risk band as there is no history to be considered. The keeping or training animals for exhibitions is not risk assessed and licence will automatically be issued for three years.

The DEFRA guidance says the following about minor failings:

If an existing business has a number of minor failings with regards to the minimum standards laid down in the schedules and the guidance, they should receive a risk rating score of 1 star. These minor failings should be predominantly administrative or if they are in relation to standards, they must not compromise the welfare of the animals. If animal welfare is being compromised, a licence should not be granted/renewed or, if already in place, should be suspended or revoked.
Title: Special Treatment Regulations

Report of the Service Manager Public Protection

<table>
<thead>
<tr>
<th>Open Report</th>
<th>For Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wards Affected: All</td>
<td>Key Decision: No</td>
</tr>
</tbody>
</table>

Report Author: Theo Lamptey, Service Manager Public Protection

Contact Details: Tel: 020 8227 5655
E-mail: theo.lamptey@lbld.gov.uk

Accountable Director: Fiona Taylor, Director of Law Governance

Summary

The Council, as the Licensing Authority, is responsible for the licensing of special treatments premises offering the following:

- massage, manicure, pedicure, nail extensions, facial, acupuncture, tattooing, body piercing, cosmetic piercing, chiropody, light, electric or other special treatment of a kind such as sunbeds, vapour, sauna or another bath.

The Council is empowered to prescribe its own procedures for the determination of the licence applications and the conditions and restrictions on the treatments or subject to which licences are granted. Under Part II of the London Local Authorities Act 1991, person wishing to provide special treatments at premises within the borough, are obliged to apply to the Council to be granted a licence to do so.

The Council is similarly empowered to make Regulations prescribing standard conditions and restrictions on or subject which licences are in general to be granted, reviewed or transferred.

The Council may also prescribe the information that must be provided by the applicants for the grant, renewal, transfer or variation of a licence, notices applicants must give, including the public advertisement of the application and its own procedure for determining applications.

The legislation applies the licensing system to take appropriate measures to ensure that special treatments are offered and provided without risk to the health, safety and welfare of the public and / or practitioners and in the absence of impropriety or public nuisance.

This report provides an update on the review of the licensing documents, procedures and adaptation of new regulations with effect from 1 April 2019.
Recommendation(s)

The Licensing and Regulatory Board is asked to note the report.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

Appendix A – Regulations (Standards Conditions) to be effective on 1 April 2019
Appendix B – Rules of Procedures
London Borough of
Barking and Dagenham

SPECIAL TREATMENT REGULATIONS

These Regulations are made under section 10(1) of the London Local Authorities Act 1991 Part II, to prescribe standard conditions for the grant, renewal and transfer of special treatments premises licences.

Standard Conditions of Licences for Premises Offering Special Treatments in the London Borough of Barking and Dagenham

In force from 1 APRIL 2019
INTRODUCTION
These Standard Conditions have been set by the Council to regulate the day to day operation of premises licensed to provide special treatments in the London Borough of Barking and Dagenham. They are designed to protect the health and safety of the public and staff at licensed premises.

These conditions are applicable to all premises, including private residential premises, offering special treatments.

Their application does not in any way replace or reduce the underlying statutory duty on employers and self-employed persons to comply with the requirements of the Health and Safety at Work etc Act 1974 or any other applicable legislation.

These Standard Conditions will remain under review and will be amended as required.

Amendments will generally be introduced to take effect at the start of a licensing year unless there are circumstances where immediate changes are required to ensure that equipment and/or treatments and practices are prevented from posing a risk to the health, safety or wellbeing of any person. Licensees will be notified in writing of any such amendments having immediate effect.

Fee Charges
The fees for Special Treatment Licences are reviewed annually.

There are no exemptions or exceptions within the pricing structure, regardless of the status of the business operation or of the working hours of any business or individual.

The current table of fees is available on the London Borough of Barking and Dagenham website.

An application fee is payable before any application for the grant, renewal, transfer or variation of a special treatments premises licence will be considered by the Council.

The license fee, payable on approval of the application, is that for the highest risk category treatment offered at the premises. All other licensable treatments provided at the licensed premises will be permitted for this fee.

Licence fee charges are imposed in respect of the provision of Special Treatments in any of 4 risk categories

Special Treatments Licensing and Health & Safety Visits
Proactive visits may be made to any licensed premises during its operating hours to ensure compliance with the terms, conditions and restrictions of the licence.

All complaints or adverse intelligence received by the Council regarding the operation of licensed premises will be investigated. Unannounced visits to premises may be made in furtherance of such investigation. Officers will assess the validity of any complaints and provide clear indication of remedial actions necessary for the licensee to take to address any concerns identified.

Failure to comply with any conditions of a licence may result in enforcement action by the Council including revocation of the licence and/or prosecution.

Special Treatments Premises Licence application forms, the current table of fees and other relevant information and forms are available on the London Borough of Barking and Dagenham website at https://www.lbhd.gov.uk/business/licenses-and-permits/special-treatment-licences/overview/
DISPENSATION OR MODIFICATION OF STANDARD CONDITIONS

These conditions may be dispensed with or modified by the Council in any special case.

The Council may, in granting a licence or giving written approval or consent under these Regulations, impose such additional terms, conditions, or restrictions as it shall specify in writing.

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 at the licensed premises.

The Council may modify or amend these Regulations to reflect any changes in legislation as necessary.
CONDITIONS APPLICABLE TO ALL PREMISES

1. THE LICENCE
   1. The current licence, including the list of practitioners and treatments, or a clear copy of it, shall be prominently displayed at the premises at all times and in a position where it can easily be read by all persons using the premises.
   2. The licence is personal to the holder and cannot be transferred to any other person unless an application for the transfer has been made, and the Council has granted the application.
   3. The licence is only valid in respect of the premises named on the licence.
   4. The licensing year runs from 1st April - 31st March. Licences will be granted for a maximum period of 12 months and all licences will expire on 31st March.
   5. The premises specified in the licence may offer only those special treatments that are specified in the licence.
   6. Licensed treatments shall only be provided by a special treatment practitioner or by a person undertaking training who is under the direct supervision of a special treatment practitioner.
   7. Only practitioners specified in the licence may carry out special treatments specified in the licence at the premises.
   8. A licence will not be issued until the required fee is received by the Council.

2. THE LICENCE HOLDER/LICENSEE/AUTHORISED PERSON
   1. The licence holder shall notify the Council in writing of any change in their private address, principal place of business, company name, registered office, Company Registered Number, Charity Register Number or change of charity status within 28 days of such change.
   2. The licence holder shall ensure that valid public liability insurance with an appropriate level of cover is held in respect of the premises and all special treatments provided.
   3. The licence holder may authorise a responsible person or persons to manage the premises during opening hours.
   4. Authorised persons shall be deemed by the Council to be acting on behalf of the licensee in respect of the management of the premises and compliance with the licence conditions, in the absence of the licensee; but may also themselves be held accountable for any failure to ensure compliance with those conditions arising from their conduct or management of the premises.
   5. The licence holder shall ensure that all practitioners carrying out special treatments are suitably trained and/or qualified and evidence of such shall be submitted to the Council.
   6. The Council may seek verification of all certificates submitted as evidence of competence. Where verification is not possible, or the qualification claimed is not accepted as appropriate, the Council may require the proposed practitioner to be assessed by an independent organisation acceptable to the Council, to establish competence. All assessment costs will be borne by the licence holder/applicant. In exceptional circumstances experience may be acceptable as an alternative to qualifications for certain treatments.
   7. The licence holder shall not allow any person to operate another business from the premises if it includes the provision of any licensable treatment.
   8. The licence holder must inform the Council within 28 days of any criminal convictions acquired by anyone associated with the premises.
9. The licence holder shall ensure that at least one practitioner or another competent person present in the premises has sufficient command of spoken and as necessary written English in order to satisfactorily conduct client interviews and provide aftercare advice.

10. The licence holder shall at all reasonable times allow officer(s) of the Council access to the premises and to any documentation required to be kept as a condition of the licence. Failure to do so will render the licensee liable to prosecution.

3. CHARGE OF LICENSED PREMISES
1. The licence holder and/or authorised person shall be familiar with all the conditions contained in this document and the licence holder will be responsible for compliance with the conditions under which the licence is held.
2. In the event of any breach of the conditions under which the licence is held the Council may initiate formal proceedings against the licence holder.
3. The licence holder shall ensure that all practitioners carrying out special treatments in the licensed premises are familiar with all relevant conditions.
4. The licence holder shall ensure that any non-licensable beauty treatments or therapies carried out at the premises are provided by suitably qualified persons whose qualifications have been checked prior to their providing any treatments.
5. If the licence holder sublets any part of the licensed premises for the provision of non-licensable treatments, it must be ensured that:
   i. the sub-lessee’s use of the premises does not affect the licence holder’s own compliance with the licence conditions; and
   ii. so far as is reasonably practicable, that the activities of the sub-lessee do not expose the licence holder’s employees, or members of the public to risks to their health, safety or welfare.

4. CONDUCT OF THE PREMISES
1. The licence holder/authorised person shall ensure that no part of the premises is used by persons for soliciting, any act of indecency or other immoral purposes.
2. Other than as necessary by those persons receiving treatment in accordance with the conditions of the licence, all persons present in any part of the premises shall be decently and properly attired. Suitable changing accommodation shall be provided where required.
3. The licence holder/authorised person shall ensure provision for the maintenance of personal privacy. Such provision shall ensure that no person receiving treatments, who may be in a state of undress, is unwillingly or unwittingly exposed to the view of other clients or passers-by.
4. The licence holder/authorised person will ensure the ready availability of suitable gowns for the use of clients in a state of undress should an emergency arise requiring the immediate evacuation of the premises.
5. The number of clients receiving special treatments on the premises at any one time shall not exceed the number of qualified practitioners and/or the capacity of facilities available.

5. CONDUCT OF PERSONS AT THE PREMISES
The licensee must:
   i. Endeavour to ensure that no indecent and/or sexual acts are carried out at the premises;
   ii. Exclude any person who has committed any such act on the premises;
iii. Ensure that no person intoxicated by drink or drugs is permitted on the premises;
iv. Ensure, where there are internal doors which are lockable, that those doors are of a type that can be opened from the outside in an emergency;
v. Not cause to be published any advertising in words or pictures suggestive of an erotic element to any treatment provided.

6. PERSONS WHO MAY GIVE TREATMENTS
1. Except as provided below, treatment shall only be given by qualified persons who have been approved by the Council in respect of whom a full-face digital photograph taken within the twelve-month period preceding the application for approval, has been submitted to the Council.
2. Where a practitioner is exempt under the Act, or is a member, at the appropriate level, of a professional body of healthcare practitioners granted exemption by the London Special Treatments Working Group, current details of their membership of the relevant body shall be kept at the premises.
3. Treatments may be given by a trainee practitioner where that trainee is both approved by the Council and under the personal supervision of a qualified practitioner.

7. RECORD KEEPING
1. Records shall be kept on the premises in respect of every special treatment practitioner or trainee practitioner who provides licensed treatments on the premises.
2. Records shall include the following information:
   i. Full name
   ii. Home address
   iii. Date of birth
   iv. A photograph of the practitioner
   v. Full list of treatments offered by that practitioner at the premises
   vi. Details of qualification and/or training attained/completed and the awarding body, including copies of qualifications
   vii. For a trainee the records must also indicate the name(s) of the training supervisor and list of treatments that person is supervising
3. With the exception of manicure and pedicure treatments, before any treatment is administered for the first time, the practitioner, or another competent person, shall interview the person to be treated.
4. The interview shall be conducted in a manner that is clearly understood by the person to be treated. Where this is not possible, treatment shall not be given.
5. During the interview the following details must be recorded:
   i. The name and address of the person to be treated
   ii. The age of the client (if under 18)
   iii. The treatment to be given
   iv. The dates on which the treatment is given
   v. The name of the person giving the treatment
6. All records concerning special treatments shall be kept securely at the licensed premises for at least 2 years.
7. The records must be readily available for inspection by an authorised officer.
8. **INFORMED CONSENT**
   1. The practitioner or another competent person, shall inform every client receiving any treatment, other than manicure or pedicure, for the first time of any possible complications and/or side effects of the treatment and any danger associated with a failure to disclose a medical condition.
   2. The matters discussed shall be recorded with the clients’ details. The person receiving the treatment shall sign the record to indicate that they understand what they have been told and consent to the treatment.
   3. The practitioner must check before the provision of any subsequent treatments that the client’s medical details remain unchanged and consider contra-indications to treatment in the event of any change. Any changes must be noted on the client record and a new consent signature obtained.
   4. Specific informed consent shall be obtained where trainee/apprentices will be carrying out the treatment.

9. **PROOF OF AGE/IDENTITY**
   1. Where legal or advisory age restrictions are in place for certain treatments, premises must have a policy requiring any person who appears to be under the age of 18 to show photographic identification. Examples of acceptable photo ID are photo driving licences, passports, and proof of age ID cards bearing the PASS hologram.
   2. Staff who work in the premises must be made aware of the age verification policy. The fact that age has been verified must be added to the client record.
   3. In any event, no treatment shall be carried out on a child under 16 years of age unless a parent or legal guardian is present and has signed a consent form.

10. **ALTERATIONS TO PREMISES**
    1. Alterations or additions, whether permanent or temporary, to the structure or layout of the premises or to the means of lighting, sanitation or ventilation, shall not be made unless an application to vary the licence has been submitted to and approved by the Council. This condition shall not require notice to be given to the Council of any work which is necessary for the efficient maintenance of the premises.
    *(Alteration to the premises may additionally require planning permission)*

11. **ANAESTHETIC**
    1. No local anaesthetic administered by injection shall be given other than by a medically qualified practitioner.
    2. No prescription medicines may be administered to a client by a practitioner.
    3. Topical local anaesthetic creams, gels, and sprays may be purchased and administered by the client themselves prior to treatment, if so desired, but must not be supplied or administered by the practitioner. In such cases, a detailed consultation identifying any contraindications must be carried out and recorded on the client record.

12. **ANIMALS**
    1. All animals, other than assistance animals, are prohibited in treatment rooms and treatment areas.
13. **STRUCTURE AND REPAIR**
   1. Internal walls, doors, windows, partitions, floors or floor coverings, ceilings, lighting and ventilation in all parts of the premises used by clients and practitioners must be constructed of smooth impervious materials which are easy to clean and must be maintained in good repair and condition.

14. **CLEANLINESS OF STRUCTURE, FURNITURE AND FITTINGS**
   1. All parts of the premises used by clients and practitioners must be kept clean.
   2. All furniture and fittings in treatment areas must be kept clean and in such good repair as to enable them to be effectively cleaned.
   3. All tables, couches and seats used in the treatment area and any surface on which equipment is placed immediately prior to treatment must have smooth impervious surface that is wiped down regularly with a suitable disinfectant.
   4. Where tables or couches are used, they must be covered by disposable paper sheet/towel or similar which must be changed for each client.

15. **CLEANLINESS OF EQUIPMENT**
   1. Adequate facilities and arrangements must be provided for the cleaning, disinfecting and, where required, sterilisation of work tools, equipment, protective clothing, gowns, towels etc.
   2. Adequate storage for all items must be provided to avoid, as far as possible, the risk of contamination.
   3. Before use in connection with a treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in the treatment must be - clean, in good repair and, so far as is appropriate, sterile; and - must not have been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned and, so far as appropriate, sterilised.
   4. The licence holder must ensure that any needle, metal instrument, or other item of equipment used in treatment or for handling instruments and needles used in treatment, so far as is appropriate, is in a sterile condition and kept sterile until it is used.

16. **INFECTION CONTROL**
   1. Procedures for decontamination, disinfection and sterilisation of equipment shall be provided at the premises, where necessary.
   2. Glass bead sterilisers, UV light boxes, hot air ovens and water boilers must not be used for sterilisation purposes.
   3. Any autoclave/steam steriliser used for sterilisation shall be correctly installed and must only be used in accordance with manufacturer’s instruction and with the current version of Medical Devices Agency’s (MDA) [now the Medicines and Healthcare products Regulatory Agency] Device Bulletin DB2002(06). It must also be periodically maintained and tested in accordance with the manufacturer’s instructions and MDA DB9804.
   4. All checks, tests and maintenance performed on the autoclave/steam steriliser must be documented and the records kept on site and made available for inspection by an officer of the Council.
   5. Where chemicals are used for sterilisation, the licensee must keep at the premises evidence that any chemical used is fit for purpose and is being used in accordance with the manufacturer’s instructions.
6. Equipment and furniture must be cleaned, disinfected and/or sterilised to an appropriate level depending upon their use.

17. **WASH HAND BASINS**
1. A wash hand basin must be easily accessible to practitioners to permit washing of hands immediately prior to and during treatment. Wash hand basins must be located to reduce the likelihood of re-contamination of hands after washing i.e. practitioners must not make hand contact with surfaces such as door handles after hand washing.
2. All wash hand basins must be properly drained and provided with hot and cold running water. It is best practice to have a hands-free (infra-red, elbow operated, foot operated, or knee operated) mixer tap capable of delivering constant warm running water installed at the wash hand basin.
3. Liquid hand wash and paper towels, preferably wall mounted, or a supply of single use cloth towels must be available at all times.

18. **CHEMICAL USAGE**
1. All substances held on the premises and used for special treatments must be held in suitable containers that are properly labelled. Containers must be tightly sealed when not in use.

19. **ELECTRICAL SAFETY**
1. The licence holder shall ensure that the fixed electrical installation, including escape lighting is periodically inspected and certified by a competent electrical engineer in accordance with the British Standard 7671 and complies with the Electricity at Work Regulations 1989.
2. A copy of the current certificate must be kept at the licensed premises and available for inspection by an authorised officer.
3. The licence holder shall ensure that all portable electrical appliances 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.

20. **FIRST AID**
1. The licence holder must ensure compliance with The Health and Safety (First Aid) Regulations 1981. In particular, they must nominate an appointed person (who may be themselves) to look after first aid arrangements and equipment. There must be a suitably stocked first aid box available. The first aid provisions must reflect the known contra-indications for individual treatments.

   It is recommended that at least one person working in the premises is trained in first aid.

21. **GAS APPLIANCES**
1. All gas appliances and installations at the premises shall be inspected for safety at intervals not exceeding 12 months by a Gas Safe registered engineer.
2. A copy of the current certificate must be kept at the licensed premises and available for inspection by an authorised officer.

22. **GAS CYLINDERS**
1. Appliances utilising cylinders or containers of gas under pressure (apart from CO₂
cylinders and hand-held aerosols) shall not be used on the premises except with the prior consent of the Council and in accordance with such conditions as the Council may consider necessary. The use of liquid petroleum gas in cylinders is unlikely to be approved.

23. **HEATING**
   1. All parts of the premises regularly occupied by the public or employees shall be heated to the satisfaction of the Council.
   2. Portable heating appliances shall not be used at the premises except with the prior consent of the Council.

24. **LIGHTING**
   1. All lighting, including escape lighting, shall be maintained in full working order.

25. **PRESSURE SYSTEMS**
   1. Any equipment operating under pressure shall be inspected for safety by competent person. All pressure systems shall be operated in accordance with the Pressure Systems (Safety) Regulations 2000.

26. **SHOWERS**
   1. In premises providing body treatments involving the application of heat by sauna, solarium, steam bath or other baths, suitable and sufficient showering facilities shall be provided.

27. **VENTILATION**
   1. Any mechanical ventilation system shall be maintained in correct working order and shall comply with the relevant British Standard.
   2. Care should be taken to ensure that neither noise nor vibration arising from the running of the equipment will cause annoyance or discomfort to residents living nearby.

28. **WC FACILITIES**
   1. The licence holder must ensure that there are adequate WC facilities for both staff and clients and they must be:
      - maintained in good order and kept clean
      - lockable
      - suitably and sufficiently ventilated
   2. Each WC must have access to a designated wash-hand basin located within the WC or just outside of the WC. The wash-hand basin must be provided with hot and cold running water (or a mixed tap that provides warm running water), liquid hand wash and paper towels, preferably in wall mounted dispensers, or a supply of single use cloth towels.
29. **WASTE MATERIAL**

1. Licence holders shall ensure that all waste is collected and disposed of by a licensed contractor.
2. A sufficient number of suitable contaminated waste containers shall be provided.
3. Used needles, blades and any other sharps for disposal shall not be placed in with general refuse but shall be placed after use in an appropriate sharps container and disposed of as clinical waste.
4. Clinical waste, swabs, dressings, coverings, wax strips, etc, contaminated by blood, body secretions or other body fluids shall be placed in an approved receptacle and collection by a licensed waste management company arranged at regular intervals.
5. A valid contract shall be in place for this service at all times between the licence holder and the licensed waste management company.
6. A copy of the contract shall be kept at the establishment and must be produced upon request by an Officer of the Council.
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Special Treatments Rules of Procedure

Special Treatments Premises Licence Applications

This document is to be read in conjunction with the Council’s Special Treatments Regulations.
1. **Introduction**

1.1 Part II of the London Local Authorities Act 1991 requires that establishments for special treatments be licensed by the Borough Council. The meaning of establishment for special treatment is defined by the Act as, “any premises used, intended to be used or represented as being used for the reception or treatment of persons requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other special treatment of the like kind or vapour, sauna or other baths”.

**Exemptions**

1.2 It does not include—

(a) any premises which are not used for gain or reward;

(b) any premises where the special treatment is carried out by or under the supervision of—

(i) a medical practitioner duly registered by the General Medical Council; or

(ii) any bona fide member of a body of health practitioners which has given notice in writing to the borough council that it—

(A) has a register of members;

(B) requires as qualification for membership qualifications by way of training for, and experience of, the therapy concerned;

(C) requires its members to hold professional indemnity insurance;

(D) subjects its members to a code of conduct and ethics, including a prohibition of immoral conduct in the course of their practice; and

(E) provides procedures for disciplinary proceedings in respect of its members;

and has supported that notice with satisfactory documentary evidence, if required by the council; or

(iii) in the case of acupuncture, a dentist registered under the [1984 c. 24.] Dentists Act 1984;

(iv) in the case of osteopathy, a person registered as a fully registered osteopath or a conditionally registered osteopath under the [1993 c. 21.] Osteopaths Act 1993;

(v) in the case of chiropractic, a person registered as a fully registered chiropractor or a conditionally registered chiropractor under the [1994 c. 17.] Chiropractors Act 1994;

(c) any premises which are used by a person who is registered by a board under the [1960 c. 66.] Professions Supplementary to Medicine Act 1960—

(i) solely for the practice of the profession in respect of which he is so registered; or

(ii) for the practice of the profession in respect of which he is so registered and for the conduct by him of any business ancillary to such practice and no other purpose;

(d) any hospital provided by the Secretary of State or by a National Health Service Trust established under the [1990 c. 19.] National Health Service and Community Care Act 1990 or by a charity which is registered under section 4 of the [1960 c. 58.] Charities Act 1960 or is exempted from registration by subsection (4) of that section; or

(e) any nursing home which is for the time being registered under Part II of the [1984 c. 23.]
Registered Homes Act 1984 or exempted from registration under that Part of that Act;
(f) any premises where the only special treatment carried out is of a class which from time to time is
by resolution of the borough council excluded from the operation of this Part of this Act;

A copy of the legislation can be found at

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

**Period of Licence**

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

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

2. **Application Requirements**

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

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

All forms are downloadable from the Council’s website and may be completed electronically if desired,
but not otherwise modified. Forms are available in hard copy on request from the Licensing Team.

**New Licence Applications require the following to be submitted:**

- a completed Application for a New Special Treatments Premises Licence form
- a completed Practitioner Details form for each proposed practitioner
- copies of qualifications for each practitioner in respect of each treatment they propose to provide, a copy of photo identification for each proposed practitioner and a separate digital photograph
• a completed Declaration of Convictions for all persons and/or organisations named on the application form
• a plan or line drawing of the premises (preferably no larger than A4 size with a minimum scale of 1:100), which should identify the following:
  o the full extent of the proposed licensed premises
  o defined treatment areas/rooms
  o entrances, exits and escape routes
  o WCs, showers and wash hand basins
  o passageways
  o general location of equipment
  o safety equipment including:
    - emergency lighting
    - automatic fire detection
    - firefighting equipment
    - Fire Exit signage

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

Licence Renewal Applications require the following to be submitted:

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

Transfer of Licence Applications require the following to be submitted:

• a completed Transfer application form
• a Consent to the Transfer of a Special Treatments Premises Licence form completed by the existing licensee OR evidence of efforts made to obtain the existing licensee’s consent
• if any changes to the licence are required, a separate Application to Vary a Special Treatments Premises Licence form and associated documents must also be submitted
Applications to Vary a licence require the following to be submitted (as applicable):

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

3. Application Procedure

3.1 An application for a new licence must be made on the prescribed form and must be completed by or on behalf of the proposed licensee. The completed form and supporting documents may be submitted to the Council by post or by email. The application form must be signed by the applicant, a solicitor or other duly authorised agent acting on behalf of the applicant. Electronic signatures are accepted on emailed documents.

3.2 Anyone over the age of 18 may apply for a special treatment licence. Partnerships and bodies corporate may also apply for a special treatment licence but must supply the names and private residential addresses of all partners or directors. In all cases details must be provided for persons who will be responsible for the day to day management of the premises.

3.3 The application must be accompanied by a plan of the premises for which a licence is sought.

3.4 The applicant must pay a non-refundable application fee.

3.5 If one or more of the application criteria are not met, in that all requisite documents or information has either not been provided or is found to be unsatisfactory, the application will be deemed invalid and the applicant notified. The Council will allow the applicant to submit any outstanding or additionally required documents. If these documents are provided the application will be deemed valid from the day they are received, and the approval process commenced. If outstanding documents are not received within 14 days of notification, unless alternative arrangements have been agreed with the Licensing Team, the application will become void. Should the applicant still wish to be granted a special treatments premises licence, a new application must be submitted with the payment of another application fee.

3.6 Once an application is determined to be valid by the Council, a 28-day formal consultation period will begin, during which time statutory consultees, and anyone else who wishes to, may make representations in relation to the application.
3.7 The Council will require the applicant for the grant of special treatments premises licence to advertise the application by exhibiting a notice, visible from the outside of the premises for which a licence is sought, for a period not less than 28 days.

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

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

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

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

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

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

b. London Fire Authority
   The Fire Authority will check compliance with fire regulations under the Regulatory Reform (Fire Safety) Order 2005.
c. Metropolitan Police Service
Checks will be carried out to ensure that the applicant, practitioners and any others involved in the operation of the premises do not have any relevant criminal conviction and to determine whether the applicant may be considered a fit and proper person to hold the licence.

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

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

**No Objections**

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

**Objections Withdrawn**

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

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

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

Provisional Grant

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

3.16 The Council shall, on application being made for the appropriate variation of the licence, confirm any licence granted if it is satisfied that the premises have been completed in accordance with its requirements.

4. Right of Appeal

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

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

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

A fee will be payable to the court when an appeal is lodged. If any applicant wishes to appeal a decision in respect of a special treatments premises licence they are strongly advised to seek legal representation and/or contact the relevant court for further advice. As the respondent to the appeal, the Council will not be able to help with this process.
Where the appeal is against the revocation of or refusal to renew a licence, the licence will remain in force until the determination or abandonment of the appeal. Where the appeal is against the imposition on renewal or variation of conditions or restrictions not previously specified on the licence, the licence shall be deemed to be free of them until determination of the appeal.

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

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

5. Conditions

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

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

6. Change of Licence Holder (Transfer)

The person or organisation named on an existing licence may be changed. The proposed new licence holder must submit a completed Application to Transfer a Special Treatments Premises form and pay the application fee. A Consent to the Transfer of a Special Treatments Premises form completed by the current licensee should be submitted with the application, but if a consent form is not provided, evidence that reasonable attempts have been made to obtain the consent of the licensee must be
submitted with the application. There is no requirement to display a public notice and the Council will consult only the Metropolitan Police in respect of the application. The police may only raise an objection if they do not consider the applicant to be a fit and proper person to hold the licence.

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

7. **Variation**

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

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

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

8. **Change of Premises Name**

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

9. **Change of Details**

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

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

(a) used, represented as being used, or intended to be used to provide special treatments without the requisite licence; or

(b) used in contravention of the terms, conditions or restrictions on or subject to which a special treatments premises licence has been granted;

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

11. **Penalties**

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

(a) any person who intentionally obstructs an officer in the exercise of his or her powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000;

(b) If any occupier or other person concerned in the conduct or management of premises in the borough uses them as a special treatments premises or represents them as being so used or permits the premises to be so used, he or she shall, unless the premises are currently licensed by the Council, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,500;

(c) If any premises in respect of which a licence is in force are used as special treatments premises otherwise than in accordance with the terms, conditions or restrictions on or subject to which the licence is held, then the holder of the licence or other person concerned in the conduct or management of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.
12. **Contact Information**

**Licensing Team**
London Borough of Barking and Dagenham  
Lower Ground Floor  
Barking Town Hall  
1 Town Square  
Barking  
IG11 7LU  
Email: licensing@lbbd.gov.uk

**Health and Safety Team**  
London Borough of Barking and Dagenham  
Lower Ground Floor  
Barking Town Hall  
1 Town Square  
Barking  
IG11 7LU  
Email: health&safety@lbbd.gov.uk

**Metropolitan Police**  
**Licensing**  
Romford Police Station  
10 Main Road  
Romford  
RM1 3BJ  
Email: eastareabcumailbox,b&dlicensing@met.pnn.police.uk  
Phone: 020 8227 5642

**London Fire Brigade**  
Fire Safety Regulation: North East Area 2  
169 Union Street  
London  
SE1 0LL  
Email: firesafetyregulationNE@london-fire.gov.uk  
Phone: 020 8555 1200 x52100
# Applications and Appeals

The report provides an update on all licensing matters dealt with by the licensing team since the last meeting in 2018.

## Recommendation(s)

The Licensing and Regulatory Committee is asked to note the report.

## Reason(s)

The Council, in achieving its priority of “Enabling social responsibility”, must consider objections to applications and respond to appeals on decisions made.

## 1. Applications and Appeals

1.1 The Licensing and Regulatory Committee are provided with updates on appeals and applications made to the Council at each meeting.

1.2 The Licensing Team provides the following updates on work activities undertaken since the last meeting of the Committee in 2018, the following licences have been granted (1 August 2018 to 31 January 2019):

- Temporary Event Notices (TENs) processed - 26
- Personal Licence - 58
- Premises Licence/ Transfer/ Vary Designated Premises Supervisors (DPS) - 38
- Special Treatment Licence Applications – 3
- Gambling Licence – 2
- Explosive Licence – 20
- Animal Licence - 6
- Other Applications received and processed - 10
- Review Hearing - 0
• Appeals – 0

Public Background Papers Used in the Preparation of the Report: None

List of appendices: None