

Regulations and licence conditions

The Council has made regulations that deal with the licence application process and the way in which applications are determined, and set certain conditions that the licence holder must comply with. It is an offence not to do so.

Regulations made by the Barnet London Borough Council under section 7(4) and section 10(1) of the London Local Authorities Act 1991 prescribing standard conditions for special treatment licences.

PART I

- (i) These regulations are divided into three parts as follows:

Part I General and regulations for application for and determination of licences.

Part II Conditions which apply to all premises.

Part III Conditions which apply to specific premises where there are special circumstances (e.g. ultra violet treatment).

- (ii) In these regulations all references to a British Standard (BS) shall be deemed to refer to the current standard.

Disabled People

It is the policy of the Council that there should be access to and facilities for disabled people at premises licensed for special treatment. Licensees are therefore encouraged in the strongest possible terms to provide such facilities so as to enable the admission of disabled people.

Health and Safety at Work

It should be recognised that while these standard conditions are applied to a licence for special treatment their application does not in any way replace or reduce the underlying statutory duty of employers to comply with the Health and Safety at Work etc Act 1974 and any associated regulations and codes of practice.

The management of health and safety is wide-ranging in nature and may overlap, to some extent, with these conditions. Employers and self-employed persons are required by the Management of Health and Safety at Work Regulations to assess the risks to their workers and any others (i.e. patrons) that may be affected by their business so as to identify what measures are needed to avoid or control the risks. The assessment should be considered with these conditions to manage health and safety at the premises.

Dispensation or modification or rules

2. (a) These regulations may be dispensed with or modified by the Council in any special case.
- (b) The Council may in giving consent under these regulations impose such conditions and as it shall specify in writing.
- (c) If the licensee wishes any of the terms of the licence to be varied an application must be made to the council, and if the Council so requires the application must be advertised.

REGULATIONS FOR APPLICATION FOR THE GRANT, RENEWAL TRANSFER OR VARIATION OF LICENCES

3. The applicant for a new Special Treatment Licence must exhibit a notice, which will be provided by the Council, outside of the premises concerned for not less than 28 days. The notice must include brief particulars of the application and how to object.
4. A copy of the applicant(s) application for the grant, renewal or transfer of a licence will be sent to both the Metropolitan Police (Local Station) and the Fire Authority.

5. The applicant for the grant, renewal, transfer or variation of a license must include the following particulars on the application form:
 - (i) Particulars of the applicant; full name and maiden name if applicable, date of birth, place of birth, private address and telephone number, previous names and addresses of other establishments for special treatment in which the applicant has been or has a) an interest, stating nature of interest b) employed.
 - (ii) Particulars of all persons carrying out treatment; full name, list of qualifications and details of the treatments to be provided.
 - (iii) Particulars of the establishment; address and telephone number of premises.
 - (iv) Details of the person who will be responsible for the day to day management of the premises, full name, date and place of birth, private address and telephone number.

6. The applicant for grant, renewal, transfer or variation of a license, must with the application submit copies of certificates of relevant qualifications for persons carrying out any special treatment. In the case of a renewal, transfer or variation of a licence, particulars are required only for any new persons offering treatment. These requirements may be waived by the Council where such copies of certificates of qualifications have been submitted on previous applications.

7. The application for grant, renewal, transfer or variation of a licence must be accompanied by the appropriate fee.

RULES FOR THE DETERMINATION OF APPLICATIONS

8. The Council shall consider every properly made application for a special treatment licence taking into account comments received from the Police and Fire Authority and any objectors.

9. Any person may object to the grant, renewal, transfer or variation of a licence. The objection must be made in writing to the Council by either the time limit specified in the window advertisement or in the case of renewal the date the existing licence expires. The notice of objection must contain reasons for the objections.

Provided the objection is in order the Head of Environmental Health shall take it into account when considering the application.

10. Where the Council proposes to refuse to grant, renew or transfer a licence or to revoke a licence the following procedure will be adopted:

The Council shall give to the person applying or holding the licence not less than seven days previous written notice that refusal or revocation is proposed. The notice shall include the date and time when the Council Committee panel will determine the application or confirm the revocation. The panel must afford to the applicant or licensee the opportunity of being heard.

If the Council then refuse to grant, renew or transfer the licence or revoke the licence they shall if required by the applicant or licensee send or deliver to him within 7 days of receipt of such requirement, particulars in writing of the ground or grounds.

PART II

CONDITIONS WHICH APPLY TO ALL PREMISES

Type of Business

11. The licence is personal, is not transferable without application to the Council and is only valid in respect of the premises named thereon.

Exhibition of Licence

12. The licence or a clear copy shall be conspicuously exhibited at all times to the satisfaction of the Council in the premises, in such a position that it can be easily seen by all persons using the premises. The licence shall be adequately protected against theft, vandalism or defacement.

Responsibility of Licensee

13. (a) The licensee shall take all reasonable precautions for the safety of the public and employees using the premises.

(b) The licensee shall at once notify the council in writing of any proposed change in the name or private address of the licensee or in the treatments provided or in the nature of the business carried on at the establishment. The alteration must not be put into effect until the licence has been endorsed.

14. The licensee shall arrange for suitable Employer's Liability and Public Liability insurance covering the range of special treatments offered. The appropriate insurances must be kept on the premises and be available for inspection by visiting officers.

Persons in charge of licensed premises

15. (a) The licensee or a duty manager nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by any officer authorised in writing by the Council. The duty manager shall not be engaged in any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision.
- (b) The duty manager shall be familiar with all licence conditions including these rules which shall be kept on the premises.
- (c) The licensee or duty manager shall at all reasonable times admit to the premises any police officer or officer of the Fire Authority, or any authorised officer of the Council (whose written authority will be provided on request).

Conduct of Premises

16. (a) The licensee/duty manager shall maintain good order and moral conduct in the premises.
- (b) The licensee/duty manager shall ensure that no part of the premises is used by prostitutes, for soliciting or any other immoral purposes.
- (c) The licensee/duty manager of the premises shall not seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.
- (d) The licensee/duty manager shall not do, or permit in the establishment, any act of an indecent or disorderly character and shall take all necessary steps to exclude from the establishment a customer or any other person who has committed such an act in the establishment.

The licensee shall not employ or permit or suffer to be in or upon the establishment any person who is of know immoral character and shall cause all persons in his employ engaged in the establishment to be decently and properly attired.

- (e) The licensee/duty manager shall not permit or suffer the door of any room or place in the establishment for the time being in use for the giving of special treatment to be locked during the period that the client is therein.

However, where a special treatment is being performed without a therapist in attendance (such as in the use of sunbeds or tanning booths) such booths or cubicles may be locked from the inside notwithstanding Regulation 15 (e), provided that the staff have the means of opening the booth/cubicle in the event of an emergency.

Where laser or Intense Pulse Light treatments are being offered, treatment rooms should be kept locked to prevent unauthorised access with a trip system on the door to enable the door to be opened from the outside in the event of an emergency.

Warning/"No Entry" signs should be placed on the front of the door and used only when the treatment is in process

- (g) The licensee/duty manager shall ensure that with the exception of those persons receiving treatment in accordance with the conditions of this licence all clients present in any part of the establishment shall present in any part of the establishment shall be decently and properly attired and separate changing accommodation for males and females shall be provided.
- (f) Except with the written consent of the Council, the licensee shall not employ in the conduct of the establishment any person (a) whose licence has been revoked or to whom a licence has been refused on the ground that such person is unsuitable to hold a licence to carry on an establishment for massage or special treatment; or (b) who is unsuitable to be so employed on the ground that misconduct in connection with the employment of such person in an establishment for massage or special treatment has been proved to the satisfaction of the Council; and except with such consent, the licensee shall not allow or permit any such person to be directly or indirectly interested in the business carried on at the establishment.

Persons who can give treatment

17. (a) Treatment shall only be given by persons who have been approved by the Council.
- (b) Treatment may also be given by other persons provided
 - (i) the person giving the treatment is under the **direct** personal supervision of a person approved by the Council and has provided details of the treatments to be provided.
- (d) Any certification of qualification (or a true reproduction) of such approved persons together with a recent full face photograph shall be kept on the premises so that all persons who wish to receive treatment may easily examine them.

Language

18. At least one person shall be present in the premises at all times who has an acceptable level of spoken and written English in order to satisfactorily discuss client records, aftercare advice etc.

Records

19. Records shall be kept available at the premises, in a form approved by the Council, of all persons receiving special treatment. The record shall include the name, address, age and type of treatment received and the name of the person giving the treatment. Any contra-indications e.g. heart conditions, diabetes, epilepsy etc for each treatment will be discussed with the client and recorded prior to any treatment

Tariff

20. All licensable treatment provided at the premises shall be clearly listed in a priced tariff. This tariff shall also clearly show the cost of any additional services provided at the premises together with VAT thereon if applicable. A copy of the tariff shall be supplied on request to an authorised officer of the Council.

Display of tariff

21. There shall be prominently and legibly displayed a comprehensive tariff of charges and placed in such a position that it can easily and conveniently be read by persons before entering or immediately upon entering the premises.

Alterations

22. a) No alterations (including temporary alterations) shall be made to the premises, without the consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.
- (b) Where the works necessitate the premises being closed for a period of time, the premises shall not re-open for the purpose of the licence without the consent of the Council.

Admission of Council's Officers

23. Officers of the Council, who are furnished with authorities which they will produce on request, shall be admitted immediately at all reasonable times to all parts of the premises.

NOTES

- (i) The officers of the Council are authorised to inspect on behalf of the Council and to give written notification to licensees or their responsible representatives of matters noted during inspection which are not in accordance with the approved arrangements for the premises, the conditions of the licence, or which may present a hazard to the public.
- (ii) Officers of the Fire Authority and Police Service are authorised to inspect premises licensed for special treatment under the provisions of Section 15(1) (b) of the London Local Authorities Act 1991.

Overcrowding

24. Overcrowding shall not be allowed in any part of premises.

Maintenance of means of escape

25. (a) The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable in accordance with the approved arrangements.
- (b) All fire-resisting and smoke stop doors shall be maintained self-closing and shall not be secured open.

Maintenance of exits

26. All exit doors shall be available for egress during the whole time that the public are on the premises.

Door fastenings

27. (a) Exit doors and gates shall not be secured closed while the public are on the premises by means of any fastenings other than panic bolts.
- (b) Locking bars, hasps, staples, screw eyes and other fastenings not approved by the Council shall not be fitted on exit doors.

Non-slippery surfaces

28. All gangways and exit ways and the treads of steps and stairways shall be maintained with non-slippery and even surfaces.

Edges of steps

29. The front edge of the tread of steps and stairways shall be made conspicuous, if so required by the Council.

Curtains, Hangings, Upholstery, Decorations etc

30. Only hangings, curtains, upholstery and temporary decorations, complying with the relevant British (or where appropriate European) Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary to the satisfaction of the Council.

- (a) Curtains and hangings shall be arranged so as not to obstruct fire safety signs, fire extinguishers or other fire fighting equipment.
- (b) Curtains, where permitted across doors, shall be hung in two halves on a free running rail to enable them to be parted easily. Such curtains shall have a clearance of at least 25mm between the bottoms of the curtain and the floor.

Floor covering

31. All floor covering shall be so secured and maintained that they will not be likely to ruck, or to be in any way a source of danger. Any mats shall be fitted into matwells so as to be flush with the surface of the floor. Each treatment room shall be provided with suitable floor covering which shall be maintained in a clean condition.

Fire Appliances

32. (a) Fire appliances and equipment approved by the Council shall be efficiently maintained in satisfactory working order and kept available for instant use. They shall be in the charge of a suitable person specially nominated for the purpose.
- (b) Portable fire appliances shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an anti-freeze agent shall be examined and recharged in compliance with manufacturer's instructions.
- (c) Where provided hydraulic hose reels shall be tested once a year to check that they are in working order and produce a satisfactory jet of water, and the test shall be recorded in a log book.
- (d) All testing of fire appliances and equipment shall be at the expense of the licensee.

Fire Warning Arrangements

33. (a) Where an automatic/manual fire alarm system has been installed it shall be efficiently maintained in satisfactory working order. The system shall be maintained and services in accordance with BS 5839 and tested regularly. All checks, tests and defects shall be recorded in a log book.

When a fire alarm system becomes defective the licensee shall notify the Council and take immediate steps to rectify the fault to the satisfaction of the Council.

- (b) All testing of automatic/manual fire alarm system shall be at the expense of the licensee.

Outbreaks of Fire

34. The Fire Brigade shall be called to any outbreak or suspected outbreak of fire, however slight, and details thereof shall be recorded in a log book. Suitable notices shall be displayed indicating how the Brigade can be summoned.

“No Smoking” Notices

35. A “No Smoking” sign must be prominently displayed within the premises.

Sanitation

36. The licensee shall ensure that adequate sanitary accommodation is available in the premises for the free use of both staff and public and in particular shall:
- (a) maintain each sanitary convenience in clean and efficient order;
 - (b) ensure that any room which contains a sanitary convenience is suitable and sufficiently lighted and ventilated and is kept clean;

- (c) ensure that in the sanitary accommodation provided there are installed and maintained suitable and sufficient wash-hand basins and that each basin is provided with an adequate supply of hot and cold water or of hot water at a suitably controlled temperature, together with an adequate supply of soap and suitable hand drying facilities;
- (d) ensure that the premises are so constructed with the adequate provision of efficient drains, suitable wall, floor and ceiling finishes, etc so that satisfactory sanitation can be maintained.

Sanitary condition of premises

37. All parts of the premises and any yard of such premises shall be kept in a clean condition to the satisfaction of the Council.

Treatment Room

38. Each treatment room shall:
- (a) be maintained in a clean and structurally sound condition;
 - (b) be adequately lighted and ventilated;
 - (c) be provided with suitable wash-hand basin or basins with a suitable supply of hot and cold water (this should be located in or in the immediate vicinity of the treatment room), together with soap, a nailbrush and either a supply of disposable towels or clean towel at all times;
 - (d) suitable and sufficient means for heating to a reasonable room temperature, appropriate for the treatment provided, shall be maintained;
 - (e) where more than one person is being treated in a room, it shall be provided with suitable screening to maintain privacy.

Cleanliness

39. Proper means to the satisfaction of the Council shall be provided for securing the cleanliness of all instruments, towels, materials and equipment used in the establishment and for their safe disposal.

Refuse Storage

40. A sufficient number of suitable receptacles with properly fitting covers shall be provided to the satisfaction of the Council for the purpose of receiving rubbish, dust and refuse from the premises. The receptacles shall be emptied whenever this becomes necessary.

The receptacles shall be maintained in a clean and wholesome condition to the satisfaction of the Council and shall be kept in position approved by the Council.

Lighting

41. The owner, occupier or any other person concerned in the conduct or management of the premises licensed for special treatment shall ensure that adequate lighting is maintained to the satisfaction of the council in all parts of the premises to which public and staff have access and it is in operation continuously during the whole time the premises are open to the public.
42. The general lighting shall be maintained alight and the lighting to “**EXIT**” or “**WAY OUT**” notices shall not in any circumstances be extinguished or dimmed while clients are on the premises, provided that so long as there is sufficient daylight in any part of the premises, artificial light need not be used in that part.

Electrical installation

43. The electrical installation for the premises shall be maintained in a safe working condition, as prescribed in the current edition of the Regulation for electrical installations issued by the Institute of Electrical Engineers and the Electricity at Work Regulations 1989.

Electrical Certificates

44. Unless the Council decide otherwise an electrical installation condition report (EICR), as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers, for the electrical installation associated with the premises licensed for special treatment shall be submitted to the Council at least once every five years or such other time as specified on the certificate. The certificate shall be signed by a qualified engineer.

The Council normally requires that any such certificate shall be signed by a Corporate Member of the institute of Electrical Engineers, or by a contractor currently enrolled with the National inspection Council for Electrical Installation Contracting, or by a suitably qualified representative of a Supply Authority or, with the prior approval of the Council, other persons deemed competent.

Heating

45. All parts of premises regularly occupied by public or employees shall be heated to the satisfaction of the Council. The heating system and/or appliances used within the premises shall be fully maintained in good working order for use when required,

Ventilation

46. The licensee shall ensure that the premises are adequately ventilated to all areas to which the staff and clients have access. Any mechanical ventilation system shall be maintained in correct working order and shall comply with British Standards 5720: 1979. The system shall be capable of full operation during the whole of the time the public are on the premises.

NOTE: Care should be taken to ensure that neither noise nor vibration arising from the running of the equipment will cause annoyance or discomfort.

PART III

CONDITIONS APPLYING ONLY WHERE THE COUNCIL SO PRESCRIBES

Escape lighting

47. (a) Two independent systems of lighting shall be provided to the satisfaction of the Council. The degree of illumination from each system shall be sufficient for illumination of the exit notices (if these are not of the self-luminous type) and to enable the public to see their way out of the premises at any time. In all portions of the premises to which the public have access, good normal lighting shall be provided during the whole time that the public are on the premises.
- (b) Where permitted by the Council a non-maintained system of escape lighting may be used (i.e. a system in which the lights are energised only when the normal lighting fails).

NOTE: the licensee may, with the consent of the Council, provide such additional lighting for decorative or other purposes as he may think fit.

Restriction on treatment

48. Unless otherwise expressly permitted by the Council, when treatment is given or is being received to any part of the body other than the neck and head or feet and legs below the knee or hands and arms and is not being so given by a fully qualified physiotherapist or other person entered on the register of the appropriate professional organisation whose qualifications have been approved by the Council, the treatment may be given only to persons of the same sex as the person giving the treatment, and persons of the opposite sex shall not be present.

Ultra violet radiation equipment

49. The licensee shall ensure that all ultra violet radiation equipment installed in the licensed establishment is used and operated in accordance with the HSE Guidelines for UV Tanning equipment.

Exemption from licence requirement

The London Local Authorities Act 1991 provides for exemption from the need for a licence in certain circumstances. The relevant section of the Act is as follows:

4. In this Part of this Act unless the context otherwise requires—

‘establishment for special treatment’ means any premises in the Part II. borough 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 a like kind or vapour, sauna or other baths but 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 Dentists Act 1984;

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

(i) solely for the practice of the profession in respect of which he 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 National Health Service and Community Care Act 1990 or by a charity which is registered under section 4 of the Charities Act 1960 or is exempted from registration by subsection (4) of that section; or

(e) any nursing home which is for the time being registered under Part II of the Registered Homes Act 1984 or exempted from registration under that Part of that Act;

A number of bodies of health practitioners that meet the conditions specified in the Act have been recognised. In the interests of consistency, applications from bodies that wish to confer exemption are normally considered jointly by all London boroughs. The list changes from time to time.

If you believe you may be exempt please contact Environmental Health on
0208 359 7995.