

## **Environmental Health Services**

### **Regulations applying to Special Treatment Licences**

#### **APPENDIX 1 (FORM A)**

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**18<sup>th</sup> June 2009**

**London Borough of Havering**  
**London Local Authorities Act 1991 – Section 10 (1) [as amended]**  
**Regulations applying to Special Treatment Licences.**

This document is in 3 parts. :

Part 1 Introduction.

Part 2 Information and guidance & Interpretation of the Regulations.

Part 3. The Regulations applying standard conditions.

**Part 1 – Introduction.**

**1. Policy.**

1.1 The Council aims to ensure that,

- any health and safety risks to the public and those involved either in the provision of or receipt of Special Treatments are adequately controlled, and
- that consistent standards are applied and achieved, and
- that licensed premises are run in a manner so as not to cause nuisance by reason of the conduct of providers and recipients of treatments, management practices or the situation of the premises.

1.2 The Council tries to ensure that people and the premises they occupy comply with the appropriate law. We will do this in a consistent, fair and transparent manner. Anyone who believes that this is not the case may make a complaint which will be investigated in accordance with the Council's Complaints Procedure available at

[https://www.havering.gov.uk/info/20047/consultations\\_complaints\\_and\\_feedback/208/complaints/2](https://www.havering.gov.uk/info/20047/consultations_complaints_and_feedback/208/complaints/2)

1.3 Council officers who carry out their duties in these premises are both authorised and competent to do so. They are not expected to assess the treatment techniques used by providers of Special Treatments but they can ensure that (i) suitable levels of hygiene, training and infection control exist;

and (ii) operators are correctly licensed in order to protect the health and safety of those employed at the premises, those receiving the Special Treatment and the public

1.4 Part II of The London Local Authorities Act 1991 (available on-line at <http://www.legislation.gov.uk/ukla/1991/13/part/II/enacted>) imposes a requirement that no premises offer Special Treatment (other than exempt premises) unless a licence to do so has been granted by the Council.

1.5 The Act allows the Council to grant licences on such terms and conditions and subject to such restrictions as it may specify.

1.6 Section 10(1) of the Act, as amended, permits the Council to make Regulations, prescribing standard conditions applying to licences.

1.7 Those Regulations are specified in Part 3 of this document. They apply to premises providing Special Treatment as defined in Section 4 of the Act

1.8 Amongst other matters, the Regulations impose a requirement that anybody who provides Special Treatment must be competent to do so and approved by the Council (see Part 2, Interpretations, for what this means)

1.9 Notwithstanding the requirements of the Act and these Regulations, the requirements of the Health and Safety at Work etc Act, 1974 (HSWA) apply to all employers, employees and self-employed people. That Act also protects people not at work, such as members of the public who may be affected by a work activity. Licence holders and persons carrying out Special Treatment must familiarise themselves with their responsibilities under the HSWA (as amended) and regulatory guidance. (Guidance is available at [www.hse.gov.uk/legislation/hswa.htm](http://www.hse.gov.uk/legislation/hswa.htm))

## **2. Operative Date.**

2.1 These Regulations were made by the Council of the London Borough of Havering on 18<sup>th</sup> June 2009 and come into effect on 1<sup>st</sup> April 2010.

## **3. EQUALITIES.**

3.1 The London Borough of Havering is committed to making sure that it provides equality of opportunity through employment and service delivery. This commitment has been reflected by the Council adopting equality of opportunity as one of its core values.

## **4. Equality Impact Assessment. (EIA).**

4.1 These Regulations relate to health and safety issues affecting both the practitioners delivering Special Treatments, clients receiving them and the general public, who may be affected by the activity. The Regulations will be applied by trained officers to all premises subject to licensing requirements to assist in the elimination of any unlawful discrimination, thus promoting equality of opportunity and good relations in the areas covered by the Regulations.

## **PART 2.**

### **Information and guidance.**

1. This information and guidance is provided to assist persons who require or may require a licence to operate a Special Treatment premises.
2. Any person who operates premises which offer Special Treatments which are subject to these Regulations must hold a licence to do so issued by the Council.
3. The licence holder is responsible for complying with these Regulations.
4. An authorised officer of the Council, an officer from the fire authority or a police officer, may at all reasonable times enter and inspect a licensed premises (or premises believed to require a licence to operate) without prior notice.
5. The licence fees for operating a Special Treatment establishment are set by the Council annually. They apply from 1<sup>st</sup> April. Details can be obtained from the Special Treatment section of the Council's web site [https://www.havering.gov.uk/directory\\_record/176/massage\\_and\\_special\\_treatment\\_licence](https://www.havering.gov.uk/directory_record/176/massage_and_special_treatment_licence) or from the Licensing Team in the Environmental Health Service.
6. Licences are generally granted for a period of twelve months from the date of issue, or such other period as the Council may decide.
7. All relevant forms relating to licence applications or variations are available on the Council's web site at [https://www.havering.gov.uk/directory\\_record/176/massage\\_and\\_special\\_treatment\\_licence](https://www.havering.gov.uk/directory_record/176/massage_and_special_treatment_licence) or on request from the Licensing Team.

8. Applicants for new licences for Special Treatment establishments must be aware that the Council will consult with the Police on the suitability of the applicants for new licences and that they are deemed to consent to such consultation by submission of an application.

9. The licence is personal to its holder and only valid in respect of the premises named on the licence. The licence cannot be transferred by the licence holder to any other premises unless the Council agrees.

10. Changes in the personal circumstances of the licence holder (for example change of private address or change of name or in the name, title or style of the premises licensed or the type of treatment offered) must be notified to the Council as these may require an application for a variation to the licence for which a fee is payable.

11. If the licence holder wishes any of the terms of the licence to be varied they must apply in writing to the Council and pay the appropriate fee.

12. A licence may be refused in circumstances described in Section 8 of the Act. These circumstances relate to;

- a. the condition of the premises; means of escape in the event of a fire; provision of heating, lighting, ventilation and sanitation when compared with the requirements of the Regulations;
- b. insufficient precautions against fire;
- c. the persons giving the special treatment are not suitably qualified;
- d. the safety of the equipment used or the manner in which the treatment is given;
- e. the creation of nuisance caused by the conduct, management or situation of the premises;
- f. the premises have been or are being improperly conducted;
- g. the person concerned or intended to be concerned in the conduct or management of the business could be reasonably regarded as not being not a fit and proper person;

- h. the applicant having been convicted of an offence under this part of the Act in the past 5 years;
- i. the applicant having failed to provide details and particulars relating to the application; or
- j. the applicant failing to pay the necessary license fee

13. A licence may be revoked if;

- a. The holder is convicted of an offence under Section 8 of the Act.
- b. The licence holder dies
- c. The licence holder asks the Council to do so.

14. An offence is committed if a person;

- a. Operates a premises without a licence
- b. Carries out a Special Treatment business outside the terms and conditions of the licence

15. If convicted of an offence, a court may impose a substantial fine and, as a consequence, the Council may refuse to renew the licence or agree to transfer the licence.

16. Any person performing Special Treatment must be competent to do so.

They must be registered with the Council for the provision of those treatments (see Part 2, Interpretations, for what this means).

17. In these Regulations, where there is any reference to the consent of the Council being required, such consent may be given on such terms and conditions, and subject to such restrictions, as may be specified by the Council.

18.1 Authority has been delegated under the Council's Constitution to the Environmental Health Manager to

- a. issue an approval or variation of a licence,
- b. to give approval for a practitioner wishing to administer Special Treatments and

- c. to cancel a licence at the written request of the holder.

18.2 Cases will be considered in accordance with the Council's Constitution where:

- a. it is considered appropriate to recommend refusal of a licence application or to vary a licence,
- b. an application is being made in circumstances where a licence has previously been revoked or refused on the grounds that such a person is unsuitable to hold a licence,
- c. it is considered appropriate to refuse to approve a practitioner's application to administer Special Treatments,
- d. a person is believed to be unsuitable to be employed because of their misconduct

19. Reference in the Regulations of the need to keep records of relevant client medical history includes any contra-indications to the treatment being carried out, and if so, whether medical advice was obtained.

Client conditions and contra-indications requiring recording include; eczema, psoriasis and other chronic skin conditions, haemophilia and other bleeding disorders, heart disorders, high/low blood pressure, receipt of medication, where the client is a nursing mother, pregnancy, epilepsy, diabetes, autoimmune disease or other conditions or medication causing immunosuppression (e.g. cancer treatments) HIV infection, hepatitis B infection, cellulites, impetigo, genital warts and any allergic reactions to e.g. anaesthetics, adhesive plasters, jewellery and metals such as nickel etc. Please note this should not be regarded as a complete list.

20. Although there is no statutory minimum age of consent for cosmetic piercing, a valid parent's consent may be required. Genital or nipple piercing performed on someone under the age of 16 might be regarded by the Courts as an indecent assault.



21. The Tattooing of Minors Act 1969 provides a statutory minimum age of consent for tattooing of 18 years of age.

22. In addition to the specific requirements of these Regulations, all businesses must have regard to any Health & Safety Executive (HSE) guidance, Codes of Practice and industry specified standards.

23. Some Special Treatments, such as tattooing or body piercing, may result in exposure to blood or other body fluids. Some people may be infected with disease causing blood-borne viruses without knowing it so adequate precautions must be taken to prevent their spread. Employers, the self employed and employees each have responsibilities to take appropriate precautions.

Up to date guidance on this and related topics is produced by (and available from) the Health & Safety Executive (HSE) and it is recommended that the guidance be obtained and followed.

(Available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA tel. 01787 881165 or <http://www.hse.gov.uk/pubns/indg342.pdf>)

24. It is recommended that persons carrying out Special Treatments where there is a risk of blood borne virus transmission should seek medical advice before doing so.

25. In the interests of infection control, where Special Treatments involving tattooing or body piercing are carried out, it is recommended that alcohol hand gel/rub be provided and used by practitioners as well as suitable hand-washing facilities.

26. Reference to the licence holder's responsibility to keep internal surfaces clean should, unless agreed otherwise by the Council, be interpreted as requiring the internal walls, doors, windows, partitions, floors (including floor coverings) and ceilings of any room where special treatment is carried out to

constructed of a material which is smooth and impervious to permit effective wet cleaning.

27. Reference to the licence holder's responsibility to obtain all necessary permissions and to comply with all other statutory requirements includes the following.

- a. Planning permission,
- b. Building Act and Regulations,
- c. Where the business is to be operated from a private residence not owned by the operator, consent from the owner must be obtained;
- d. Health & Safety at Work etc Act,
- e. Possession of appropriate insurance.

Please note this may not be a complete list. A failure to obtain all necessary permissions and comply with statutory requirements may result in a delay in the issue of a licence.

### **Interpretation of the Regulations.**

In these Regulations, the following definitions apply:

*The Act* - means The London Local Authorities Act 1991 (as amended).

*Approval of the Council* - means the prior approval or prior permission by the Council in writing, subject to any terms, conditions or restrictions specified. Any approval given by the Council under these Regulations must not be regarded as approval for any of the Council's other statutory functions.

*Business*- means a person, company or similar providing either exclusively or amongst other matters Special Treatments.

*Client* – means the person receiving the Special Treatment.

*Competent* - in relation to the provision of a Special Treatment means a person who, in the opinion of the Council, has sufficient training and experience or knowledge and other qualities to administer the Special Treatment. An indication of the training that may be acceptable is available from the Licensing Team (see Part 3, 1c for contact details) and it will soon be available on the council's website.

*Council* - means the London Borough of Havering.

*Decently and properly attired* – to be decently and properly attired requires the person concerned to have a portion or portions of his or her body covered at all times in such a manner as to conform to the acceptable standards of decency expected by a reasonable person

*Establishment for Special Treatment* - is defined in Section 4 of the London Local Authorities Act 1991 and includes, subject to specified exception, premises in the borough used, intended to be used or represented as being used for the reception or treatment of people requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other Special Treatment of a like kind or sauna, vapour or other baths.

**NB** Certain premises are exempt from licensing. These are listed in Section 4 of the Act. In general they are premises which are either not used for gain or reward or are operated under approved medical supervision or by a member of a body of certain health practitioners.

*Effectively communicate with the clients*- means to be able to conduct an interview with the client before a treatment is started, to discuss all aspects of the treatment offered, including after-care in a manner and language that can be understood by the client and, if necessary to be able to record any such interviews as maybe required by these Regulations.

*Indecent or immoral act*- means an offence which would enable a Court to require a person to be included on the Sex Offenders Register.

*Licence* - means a Special Treatment licence granted under Section 6 of the London Local Authorities Act 1991.

*Licence Holder* - means the person(s) or corporate body licensed under Section 6 of the London Local Authorities Act 1991.

*Officer* - means any person authorised in writing by the Council.

*Photo identity comparator* - means a photograph, taken within 5 years of the date of its use for identification purposes, permanently attached to evidence of the name and address of the holder e.g. passport, new-style driving licence.

*Practitioner* - means the person carrying out the Special Treatment.

*Premises* - means an establishment that provides Special Treatments.

*Public* - means any person other than a member of staff admitted to the establishment.

*Special Treatment* - means the reception or treatment of people requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other Special Treatment of a like kind or sauna, vapour or other baths.

*Treatment area* - means the area of the premises where Special Treatments are performed.

### **Part 3 –The Regulations applying standard conditions.**

#### **1. The Licence.**

- a. Other than exempted premises, no premises where Special Treatments are provided may operate without a person having first been granted a licence by the Council to do so.
  
- b. i Any person wishing to obtain a new licence must apply on the form provided by the Council at least 35 working days before the premises open.  
ii Any person wishing to renew an existing licence must apply on the form provided by the Council within 35 days of the notification of the licensing fee for the year.
  
- c. Applicants for a new licence, or for the renewal or transference of a licence, must send the original of the application form to: The Licensing Team, Environmental Health Service, London Borough of Havering, Mercury House, Mercury Gardens, Romford, Essex RM1 3SL
  
- d. Any licence application form must be signed by the applicant (in cases of joint applications, all applicants must sign) or the applicant's solicitor or by an agent acting on behalf of the applicant.
  
- e. A licence will not be granted for any premises unless it has all other necessary permissions and has reached an acceptable level of compliance with all other statutory requirements.
  
- f. The licence must be displayed in a prominent position within the premises where it can be easily seen by the public.

- g. Only those Special Treatments which are specified on the licence may be carried out on the premises.
- h. A tariff clearly displaying the charges for all treatments carried out on the premises must be displayed in a prominent position at all times.

## **2. Records.**

- a. Any requirement in these Regulations to keep records is a requirement to keep them available on the premises for inspection by an officer for a period of at least 2 years, unless prior written approval is given by the Council, for example, because of space limitations.
- b. Full complete and accurate records must be kept of;
  - i. all practitioners, giving the name, age, their private address, and which Special Treatments they are approved to carry out; and,
  - ii. all clients receiving Special Treatment. The record shall include;
    - the name and address of the client,
    - relevant medical history,
    - which Special Treatment was given and when;
    - what after-care advice was given; and
    - the name of the practitioner giving the Special Treatment\*

\* In the case of practitioners approved to administer Special Treatment under supervision, the entry shall include both the name of the practitioner giving Special Treatment and of the person supervising.

In addition to the above, in the case of Special Treatment to clients under the age of sixteen, the following records must also be kept.

- the signed consent form from the parent or guardian, and
- evidence of verification of the age using a photo-identity comparator where it is reasonable to expect that one exists.

### **3. Conduct of Business.**

The business must be run in an orderly manner so as to minimise potential nuisance to anyone. In particular;

- a. No act of an indecent or disorderly character shall take place at the premises and any person who has committed such an act at the premises, shall be excluded.
- b. All employees at the premises and all members of the public must be decently and properly attired at all times except where necessary and appropriate for those clients receiving treatment.
- c. No practitioner must provide Special Treatment if they are adversely influenced by alcohol, drugs or other substances.
- d. Any room or place in the premises which may be secured for privacy whilst a client is within it must be provided with a door capable of being opened from the outside in cases of emergency.
- e. The tattooing of clients under the age of 18 years is not permissible even if a parent or guardian is willing to give consent.

### **4. Personal hygiene.**

- a. Any practitioner carrying out Special Treatments must operate in a clean and hygienic manner appropriate to the Special Treatment being administered and in particular;

- i. wear a disposable plastic apron, a gown, wrap or other protective clothing that is clean and washable or, alternatively, a disposable covering that has not previously been used in connection with any other client;
  - ii. keep their hands and nails clean and cover any skin condition or open wound with a suitable impermeable dressing; and
  - iii. not consume food and drink during the course of the Special Treatment.
- b. In the case of a practitioner carrying out a Special Treatment that pierces the skin, suitable new single use disposable gloves must be worn in addition to the requirements of parts a. i, ii and iii of this Regulation. The Council may provide an exemption in writing in advance if it is satisfied that the practitioner will not come into contact with the client's pierced area of the body or bodily fluids to the satisfaction of the Council.
- c. In the case of a practitioner only carrying out ear piercing using sterile pre-packed studs in a gun, the requirements of part a. i. of this Regulation shall not apply; however the practitioner must wear suitable new single use disposable gloves when carrying out each new treatment.

#### **5 Persons under 16 years of age.**

- a. Prior to a client under 16 years of age receiving Special Treatment, a signed consent form, in a suitable format, must be obtained from the parent or guardian, in person.
- b. in circumstances where the licence holder is in doubt as to the client's age, they must verify the age using a photo-identity comparator.



## **6. Structure of the Special Treatment premises.**

- a. All internal parts of the premises must be kept clean and in such good repair as to enable them to be effectively cleaned.
- b. Proper precautions must be taken against fire, including the maintenance of means of escape, where appropriate, and the provision and maintenance of equipment for fire fighting.

## **7. Lighting/Heating/Ventilation.**

Suitable and sufficient lighting, heating and ventilation must be provided and maintained throughout the premises.

## **8. Sanitary Accommodation.**

- a. Sufficient sanitary accommodation must be provided and made available for clients free of charge, at the premises, for the maximum number of people who may be there. The sanitary accommodation shall be properly maintained and kept in a clean and hygienic condition.
- b. The accommodation must be supplied with suitable and accessible hand washing facilities which have continuous hot and cold water supplies (or water at a suitably controlled temperature), soap, suitable hand drying facilities and a nailbrush.

## **9. Wash hand basins.**

Suitable and accessible hand washing facilities must be provided for practitioners. These must have continuous hot and cold water supplies (or water at a suitably controlled temperature), soap, suitable hand drying facilities and a nailbrush.

## **10. Baths and Showers.**

Where necessary because of the type of Special Treatment provided, suitable and convenient cleaning facilities such as a bath or shower which have continuous hot and cold water supplies (or water at a suitably controlled temperature), soap, and drying facilities must be provided for clients free of charge.

## **11. Hygiene and Cleanliness.**

The premises must be run in a clean and hygienic manner so as to minimise any risk of spread of infection. In particular;

- i. The Special Treatment area must not be used for any other process unless appropriate hygiene standards are maintained.
- ii. Adequate facilities and equipment for the purpose of cleaning, disinfecting and sterilising instruments and equipment are to be provided and maintained in proper working order.
- iii. All tables, couches and seats used by clients in the Special Treatment area and any surfaces on which a needle, instrument or equipment is placed immediately prior to treatment which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment shall have smooth impervious surfaces, be kept clean, and be cleaned and disinfected immediately after use and at the end of each working day.
- iv. Treatment couches or tables used by clients in the Special Treatment shall be covered with a disposable paper sheet when in use, which must be changed after every treatment.
- v. Any item that penetrates the skin during a Special Treatment shall be in a sterile condition and kept sterile until it is used. Needles are to be pre-packed, pre-sterilised and only used once before proper disposal.

- vi. Any non-disposable gown, wrap or other protective clothing, covering, towel, cloth or other such article used in the Special Treatment shall be clean, in good repair and not have been used in connection with any other client without being properly cleaned or sterilised before reuse.

## **12. Waste Materials.**

Adequate arrangements, to the satisfaction of the Council, must be made for the storage and disposal of all waste material produced in the premises, including clinical waste, needles and other sharp materials.

## **13. Storage.**

Adequate provision for storage must be provided for all equipment and items involved with the Special Treatment. The store must be kept clean, and be located in such a place so as to avoid any risk of contamination.

## **14. Privacy.**

Where appropriate, separate changing accommodation for males and females must be provided so that clients can change in privacy.

## **15. Electrical Installation and Equipment.**

- a. The electrical installation and equipment for the premises shall be adequate for the intended purpose and maintained in a safe working condition.
  - i. Premises not already licensed at the commencement of these Regulations must satisfy this condition before a license can be granted.

- ii. In cases where the Council has reasonable doubt as to the safety of the electrical installation they may require an adequate safety certificate to be provided within a reasonable period of time.
- b. All accessible lamps must be adequately protected to prevent accidental contact by any person.

#### **16. Water treatments.**

- a. The baths, cabinets and other equipment provided for Special Treatments must be operated in a safe and hygienic manner. Regular chemical and microbiological testing of the water quality must be carried out and records kept for examination by an officer.
- b. The HSE's Approved Code of Practice and guidance, *The control of legionella bacteria in water systems* (obtainable from <http://www.hse.gov.uk/legionnaires/index.htm>) must be fully complied with.

#### **16. Tanning.**

The use of coin-operated tanning equipment or booths in Special Treatment premises is prohibited.

#### **17. Nail Treatments.**

- a. Artificial nail products containing predominately methyl methacrylate (MMA) must not be used
- b. None sterilisable filing boards must only be used on one client.

## **18. Emergency Assistance.**

Where necessary and appropriate, due to the nature of the Special Treatment being received, adequate means of summoning assistance in case of emergency must be provided and maintained.

## **19. Employees who require employment approval.**

No person

- i. whose licence has been revoked or whose application for a licence has been refused on the ground that such a person is unsuitable to hold a licence to carry on an establishment for Special Treatments, or,
- ii who has been convicted of any indecent or immoral act shall be employed at the premises or be allowed to have any direct or indirect interest in the business, except with the prior written approval of the Council.

## **20. Practitioners who may give Special Treatment.**

- a. Except as provided by clause d. below, practitioners administering Special Treatments must be competent to do so and have the prior written approval of the Council.
- b. Practitioners wishing to administer Special Treatment or to vary an existing approval must apply to the Council on the application form provided and supply evidence of their competence, including any relevant qualifications at least 35 working days before they intend to do so.
- c. Licences to administer Special Treatments issued by the Council shall be available for inspection at all times, at the premises, by an officer, or by clients who wish to receive Special Treatment.

- d. Special Treatment may be given by trainee practitioners who are under the personal supervision of a practitioner approved by the Council.

**21. Identification of practitioners.**

- a. All practitioners engaged in providing Special Treatment shall wear a clearly readable name badge that enables them to be identified with the name shown on their Council approval.
- b. Where it is so, the name badge shall identify the practitioners' status as a trainee.

**22. Manager.**

Where a licence holder employs a manager or other person directly or indirectly to be responsible for the management of the premises that person shall be under the same obligation as the licence holder to comply with, and secure the observance of, the licence conditions.

**23. Communication with clients.**

When a Special Treatment premises is open for business, there must always be a member of staff available on the premises who can communicate effectively with clients.