

**THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA****LICENSING COMMITTEE – 15 FEBRUARY 2017****REPORT BY THE DIRECTOR FOR ENVIRONMENTAL HEALTH****SPECIAL TREATMENT LICENSING – STANDARD CONDITIONS****INTRODUCTION**

The purpose of this report is to:

- i) Consider revised Standard Conditions to be applied to Special Treatment Licences in accordance with section 10 of the London Local Authorities Act 1991
- ii) Consider cancelling the current requirement for therapists to register with the Council prior to providing any licensable activity at licensed premises within the Royal Borough of Kensington and Chelsea

**FOR DECISION****1 INTRODUCTION****1.1 Standard Conditions**

Section 10 of The London Local Authorities Act 1991 allows London Councils to prescribe relevant 'Standard Conditions' to licences authorising Special Treatments. The Royal Borough's Standard Conditions were last agreed in 1993.

- 1.2 In the intervening 23 years many treatments requiring authorisation under this legislation have changed significantly, as has the Council's approach to self-regulation by businesses. The borough's Standard Conditions are now in need of modernisation and updating.

**1.3 Registration of Therapists**

Since 2010 the Royal Borough has required any person wishing to carry out licensable treatments to register with the Council. This has

been a free service for the last 6 years and consists of licensing officers checking an individual's identity and qualifications to assess whether that individual is sufficiently trained to carry out the treatments proposed in his or her application form.

- 1.4 Registering 'therapists' has been common practice amongst London Boroughs for many years. Recently, Westminster, Camden and Wandsworth Councils removed the requirement for therapists to register with them. These Councils placed additional conditions on Special Treatment licences, emphasising the existing responsibility of licence holders to make sure their employees are properly qualified.
- 1.5 The Royal Borough currently registers in excess of 300 new therapists each year.
- 1.6 Officers propose that the Royal Borough removes the requirement for therapists to register with the Council, placing the onus on the Special Treatment licence holder to ensure employees are properly qualified to carry out relevant treatments. Any risk associated with this change would be mitigated by placing additional relevant Standard Conditions on the licence.

## **2 SPECIAL TREATMENT LICENSING STANDARD CONDITIONS**

- 2.1 The Royal Borough has had a list of 'Standard Conditions' relating to Special Treatment Licences since 1993. Section 10 of the London Local Authorities Act 1991 states:

10. (1) The borough council may make regulations prescribing standard conditions applicable to all, or any class of, licences, that is to say terms, conditions and restrictions on or subject to which licences, or licences of that class, are in general to be granted, renewed or transferred by them.

- (2) Where the borough council have made regulations under this section, every licence granted, renewed or transferred by them shall be deemed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or amended.

- 2.2 However, in the intervening years both the types of treatments offered, and the approach the Royal Borough now has to self-regulation by businesses, have changed significantly.
- 2.3 Officers have spent a significant amount of time analysing the types of treatments now being offered in licensed premises and, in consultation with the Council's Health and Safety Team, have amended the Council's Standard Conditions to better reflect business today.
- 2.4 The 1993 version of the Standard Conditions and the 2017 amended version are embedded at the end of this report as Appendices 1 and 2.

### **3 REGISTRATION OF SPECIAL TREATMENT THERAPISTS**

- 3.1 The Royal Borough has required therapists providing licensable 'special treatments' to register with the Council since 2010. The registration process consists of the therapist providing documentary evidence of their identity and their qualifications to support their application to provide specific treatments.
- 3.2 If officers find that the therapists are correctly qualified, they issue them with a 3 - 5 year registration (dependent upon the types of treatments provided) authorising them to provide the relevant licensable treatments within the borough.
- 3.3 However, as employers, the holders of Special Treatment licences already have a duty to ensure that any person working in their premises is correctly qualified to provide relevant treatments.
- 3.4 As licence holders/employers already have this duty it would appear that the Council's therapist registration scheme is a duplication of an existing responsibility. The requirement for therapists to go through this registration process also delays their ability to take up employment in the Borough.
- 3.5 Between the 30 September 2016 and the 14 October 2016 officers carried out a consultation with the holders of existing Special

Treatment licences seeking their views on whether the Council should retain the therapist registration scheme or cancel it.

- 3.6 There are currently 225 Special Treatment licences issued within the Royal Borough and consultation letters and response forms were sent to each of the licence holders. A total of **81** responses were received from the holders of Special Treatment licences, of which **73** agreed that the Council should cancel the therapist registration scheme and add the proposed additional standard conditions to licences.
- 3.7 **8** licence holders disagreed with the proposal and ask that the registration scheme is retained.
- 3.8 There are approximately 2000 Special Treatment Therapists with current registrations with the Royal Borough, although the fact that a person has a Kensington and Chelsea registration does not guarantee that the person is currently working in this area.
- 3.9 Should Members agree that the registration scheme is cancelled, current registrations would remain valid until their natural cut off date.
- 3.10 Officers propose that the Council's therapist registration scheme is cancelled and replaced with additional conditions to be placed on each Special Treatment licence. These conditions are embedded at the end of this report as Appendix 3. Existing registrations for therapist would remain valid until their expiry date.

#### **4 LEGAL IMPLICATIONS**

- 4.1 The legal implications are contained within the body of the report

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 There are no financial implications contained within this report.

#### **6. EQUALITY IMPLICATIONS**

- 6.1 The Council, when taking decisions in relation to any of its functions, must comply with its public sector equality duty as set out in s149 of the Equality Act 2010 (the Act). The contents of this report will have no adverse or negative effect/impact on any of the protected characteristics.

## **7. RECOMMENDATION(S)**

- 7.1 On 07 December 2016, Councillor Mills chaired a sub-committee of 5 members of the Licensing Committee to scrutinise the proposal to update the Special Treatment Licensing Standard Conditions and to cancel the Council's Therapist Registration Scheme.
- 7.2 The scrutiny committee concluded that the revised version of the Standard Conditions was relevant and appropriate, and that the Therapist Registration Scheme should be cancelled subject to the approval of the full Committee.
- 7.3 Officers Recommend:
- (i) That Members approve the amended schedule of Standard Conditions for Special Treatment licences, and
  - (ii) That Members approve the cancellation of the Council's Therapist Registration Scheme.
- 7.4 Should Members approve one or both of these recommendations, officers ask that they take effect as from the 01 April 2017.

## **FOR DECISION**

**NICHOLAS AUSTIN**

**DIRECTOR FOR ENVIRONMENTAL HEALTH**

**Local Government Act 2000**

**Background Papers used in the preparation of this Report:**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file /copy</b>	<b>Department / Location</b>
1.	The London Local Authorities Act 1991 – Part II	N/A	N/A

### **Officer Contact:**

Any person wishing to inspect the above documents should contact Mr Patrick Crowley, Directorate of Environmental Health, telephone: 020 7341 5601

## **LIST OF APPENDICES:**

**Appendix 1** – Massage and Special Treatment Licensing Standard Conditions – 1993



Special Treatment  
Standard Condition

**Appendix 2** – Massage and Special Treatment Licensing Standard Conditions – Amended 2016



MST Standard  
Conditions 2016 Fin

**Appendix 3** – Therapist conditions



Therapist Standard  
Conditions.docx