

Non-Executive Report of the: Licensing Committee 13 th December 2018	 TOWER HAMLETS
Report of: David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	Classification: [Unrestricted or Exempt]
Special Treatments – The London Local Authorities Act 1991	

Originating Officer(s)	Tom Lewis, Team Leader – Licensing and Safety
Wards affected	Whole Borough

1. Summary

- 1.1 This report advises the Members of a review that has taken place with regards to licence fees that can be set locally under the London Local Authorities Act 1991.

2. Recommendations:

The Licensing Committee is recommended to:-

- 2.1 Agree that the fee for Massage and Special Treatment licences, including Intense Pulse Light laser treatment, be increased by CPI 2.4% raising Massage and Special Treatment Licences from £338 to £346 and Intense Pulse Light laser treatment licences from £544 to £557.
- 2.2 Agree that where a business operates a selection of beauty treatments and Intense Pulse Light laser treatment, that only the higher fee is payable.
- 2.3 Agree that all fees are non- refundable once an application has been made, due to the commencement of processing the licence.
- 2.5 Resolve that these fees will commence on 1 April 2019 and will apply to all licences applications for all licences referred to above.
- 2.6 The Licensing Committee is recommended to consider the request to revoke the licence and then adjudicate accordingly.

3. Background

- 3.1 When considering licence fees, Members must have regard to the requirement that charges must be proportionate and reasonable in the circumstances to the fees or costs payable under the provisions of the scheme. In essence, the fees must not exceed the costs of the procedures and formalities (effectively the costs to administer the process). The costs of paying for enforcement of the unlicensed operators should not be a consideration when setting fees.

London Local Authorities Act 1991 – Massage and Special Treatment Licences and Pulse Light Laser Treatments

3.2 The London Local Authorities Act 1991 required all business that offers any of the following treatments to be licensed by the Local Authority:

- Massage
- Manicure
- Acupuncture
- Tattooing
- Cosmetic Piercing
- Chiropody
- Light Treatment
- Electric Treatment
- Other Treatment of a Like Kind
- Vapour
- Sauna or Other Baths (Including Infra-red Sauna cabin)

3.3 However, exemptions do apply if any of the following situations are applicable and if the operators of the massage or special treatment are:

- Supervised by registered medical practitioners
- Bona fide members of a body of health practitioners
- Appropriately registered dentist practising acupuncture
- Hospital registered Nursing Homes.

3.4 The Local Authority is able to set a local fee to enable cost recovery from the process of issuing such licences. Currently there are over 250 licence holders in the Borough.

4 REASONS FOR THE DECISIONS

4.1 To ensure that the Council fulfils its statutory responsibility, the Licensing Committee is being given the opportunity to consider and comment on increasing the special treatment licence fee in line with inflation to ensure appropriate cost recovery.

5 ALTERNATIVE OPTIONS

5.1 The Committee may determine not to increase the fee and the standard special treatment licence fee of £338 or £544 for IPL and Laser treatments will be charged

6 EQUALITIES IMPLICATIONS

6.1 There are no equalities implications.

7 OTHER STATUTORY IMPLICATIONS

7.1 Best Value implications: There are no best value implications

- 7.2 Environmental considerations: There are no environmental implications
- 7.3 Crime reduction: One of the key licensing objectives of the Council is to ensure that it does not licence premises that are liable to be a source of crime and disorder. The Council supports and assists with crime and disorder reduction by controlling those who manage premises open to members of the public and imposing conditions on relevant premises licences. Illegal activity has been proven to occur at the premises.
- 7.4 Safeguarding: There are no proven safeguarding impacts; however premises that are managed in this way may employ underage persons or vulnerable adults. Therefore there may be a positive safeguarding impact.
- 7.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.

8 COMMENTS OF THE CHIEF FINANCE OFFICER

- 8.1 In general fees and charges recover some or all of the costs of services from Users. The income generated reduces the costs of services to Council taxpayers and can also be used to achieve other strategic objectives, such as encouraging the use of services. A decision to charge for, or to subsidise services needs to be based on rational considerations, which in the case of the services in this report is to enable cost recovery.
- 8.2 The recommendation of this report is to increase the fees by a minimum of CPI 2.4% from the 1st April 2019 for both the Special Treatment Licence from £338 to £346 and the Intense Pulse Light laser treatment licence from £544 to £557. This will enable the council to recover the administrative costs associated with issue of the relevant licence and therefore will contribute to the service being cost neutral.

9 LEGAL COMMENTS

- 9.1 Special treatments licences are granted in accordance with Part II of the London Local Authorities Act 1991 (as amended). Section 7(6) of the Act provides that an applicant for the grant, renewal, or transfer of a licence shall pay such a reasonable fee as determined by the Council.
- 9.2 Pursuant to its terms of reference, a function of the Licensing Committee is “to determine fees and charges for the issue, approval, consent, license, permit or other registration for functions for which the Committee has responsibility. Whilst the council has determined standard fees, such standard fee is not reasonable for these purposes based upon the time commitment required for officers to properly process the application, monitor the event and the event clear up, and provide advice both during and after the event. Based on these reasons, it is considered that the increase of the fee for this application is reasonable in all the circumstances.

9.3 Before taking the decision to increase the fee, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not.