

COMMITTEE	DATE	CLASSIFICATION	REPORT NO	AGENDA ITEM NO
Licensing Committee	31/8/10	UNRESTRICTED	LC 004/011	
REPORT OF – Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Originating Officer – David Tolley Environmental Health Commercial Service Manager		TITLE London Local Authorities Act 1991 Application to increase licence fee for the London Tattoo Convention Ward(s) affected St Katherine's & Wapping		

1. **SUMMARY:**

- 1.1 A decision of the Licensing Sub-Committee is required following an approach by Marcus Berriman to hold the London Tattoo Convention at the Tobacco Dock, Porters Walk, London, E1W 2SE on the 24th September to 26th September 2009 to increase the standard Massage and Special Treatment Licence fee from £275.90 to £2,400.

2. **RECOMMENDATION:**

- 2.1 That the Licensing Committee considers the report together with any representations made to them during the hearing, and determine the request for increase in fees.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT

Brief description of "background paper"

Name and telephone number of holder and address where background papers are open to inspection

David Tolley 0207 364 6724

3.0 BACKGROUND

- 3.1 The Policy Strategy Committee on the 13th October 1992 adopted the provisions of the London Local Authorities Act 1991 relating to Special Treatment premises.
- 3.2 The Act enables a system of licensing to be applied to establishments used for Special Treatments. Such establishments are defined as premises used for the reception or treatment of persons requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light electric or other Special Treatments of a like kind, or vapour, sauna or other baths.
- 3.3 The purpose of the legislation is to allow controls to be applied to such premises through enforceable conditions relating to public order, safety, hygiene and the qualifications of staff. Applications for licences must be made in the manner prescribed by the Council.
- 3.4 No premises shall be used as an establishment for Special Treatments without holding a Special Treatment Licence, and in accordance with any conditions attached to such a Licence. The Council has also adopted standard licensing conditions, and these are given in **Appendix 1**.
- 3.5 The Council has also prescribed standard rules and procedures for a hearing which are given in **Appendix 2**.
- 3.6 The grounds on which the council may refuse to grant such a licence are defined in the Act, and these grounds are given in **Appendix 3**.

4. REPORT

- 4.1 An initial enquiry was made by Marcus Berriman to hold an international Tattoo Convention in Tobacco Dock, The Highway, Wapping. Officers met with the applicant to discuss the feasibility of the event and to outline safety considerations.
- 4.2 A Special Treatment Licence will be required to hold the event. This will enable conditions to be placed on the applicant along with health and safety guidelines to be imposed.
- 4.3 An application has been received from Marcus Berriman.
- 4.4 Officers have worked with the applicant and Health Protection Agency to determine guidelines.
- 4.5 The Convention will attract 220 tattooists from various countries, who will be offering tattoos to members of the public, mainly by appointment. The Convention is over three days and will be opened for about 10 hours a day on the 24th, 25th and 8.5 hours on the 26th September 2010.
- 4.6 The capacity of the venue is approximately 3000 persons. The event will also have commercial stalls, art shows and exhibitions of artwork.
- 4.5 This is the sixth time that the applicant has hosted this event. It is the third time the event will be held at Tobacco Dock.

- 4.6 It has been estimated the time commitment for determining the licence and monitoring the event will be 18 hours of pre planning meetings, 21 hours of administration and vetting the paperwork and a considerable amount of hours of monitoring and advice during and after the event. This equates to a total cost of £2,400 This considerable amount of monitoring is required due to the high-risk nature of the event in controlling blood borne diseases, the control of clinical waste and the general public safety at the event.

5. **COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 5.1 This report seeks approval to recover the administrative costs associated with the proposed London Tattoo Convention. These costs are estimated at approximately £2,400 which will be credited to the Environmental Health Commercial Budget.

6. **COMMENTS OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 6.1 This report is seeking Members approval to an exceptional increase in a fee for a special treatment licence to £2,400.
- 6.2 Special Treatments Licences are granted in accordance with Part II of the London Local Authorities Act 1991 (as amended) and section 7(7) of that Act provides that an applicant shall pay to the Council upon an application for such a licence such a reasonable fee as the Council determines.
- 6.3 The Council has determined standard fees but such standard fee is not reasonable 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, the increase of the fee for this application is reasonable in all circumstances.
- 6.4 Members are also advised that this has become an annual event within Tower Hamlets and an exceptional increase in a fee for a special treatment licence has been approved for the previous events and therefore the estimate of the actual costs is a realistic estimate based on previous experience.

APPENDIX 1

REGULATIONS MADE BY THE LONDON BOROUGH OF TOWER HAMLETS UNDER SECTION 10 (1) OF THE LONDON LOCAL AUTHORITIES ACT 1991 PRESCRIBING STANDARD CONDITIONS FOR ANNUAL SPECIAL TREATMENT LICENCES.

NOTES:

- (I) Except where the context demands otherwise the singular includes the plural and the masculine includes the feminine.
- (II) Nothing in these rules shall be construed as interfering with (I) the discretion of the licensee or his representative regarding the admission of any person or (II) the need to strictly comply with all relevant statutory requirements.
- (III) These rules are divided into three parts as follows:
- Part I - General
 - Part II - Rules which apply to all premises.
 - Part III - Rules which apply to larger premises of where there are special circumstances (e.g. complex layouts).
- (IV) In these rules 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 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. To this end Council officers will be pleased to discuss and advise on the best ways to achieve this.

PART 1
GENERAL

Definitions

1. In these rules, unless the context otherwise requires:

“Approval of the Council” or “Consent of the Council” means the approval or consent of the Council as Licensing Authority in writing.

“Approved”, “accepted” or “permitted” means approved, accepted or permitted by the Council in writing.

“Approved arrangements” means the arrangement of the premises, fitting, installations and all other things in connection therewith as approved by the Council.

“Council” means the appropriate licensing authority.

“Escape Lighting” (safety lighting) means lighting, obtained from a source independent of the general supply for the building provided to assist the public and staff to leave the premises without the aid of the normal lighting.

“Establishment for Special Treatment” has the meaning set out in Section 4 of the London Local Authorities Act 1991.

“Fire Authority” means the Chief Officer and Chief Executive of the London Fire and Emergency Planning Authority.

“Licence” means a special treatment licence granted under Section 6 of the London Local Authorities Act 1991.

“Licensee” means the person or corporate body licensed under Section 6 of the London Local Authorities Act 1991.

“Management Lighting” means the combination of the approved escape lighting and that portion of the normal lighting which in the absence of adequate day lighting is intended for use to facilitate easy movement about the premises during the whole time the public are present.

“Non-combustible material” means material which is deemed to be non-combustible when tested in accordance with the provisions of the current edition of British Standard 476: Part 4, or such other material or combination of materials as the Council accepts as being non-combustible for the purpose of these rules.

“Normal Lighting” means all lighting, other than escape lighting permanently installed in those parts of the premises to which the public have access. The term includes purely decorative lighting but not lighting installed solely for advertising purposes.

“Officer” means any person authorised in writing by the Council. (This may include officers of the London Fire and Emergency Planning Authority.

“Public” means any person other than a member of staff admitted to the licence premises.

“Premises” means any premises within the Council’s area licensed for special treatment and includes all installations, fittings and things in connection therewith.

Dispensation or Modification

2. (A) These rules may be dispensed with or modified by the Council in any special case.

(B) Where in these rules 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 so specified.

(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 require the application must be advertised.

PART II

RULES WHICH APPLY TO ALL PREMISES

Type of Business

3. The establishment shall be carried on only for the treatment or business and in the trade name or style specified in the licence and at the address mentioned therein.

Exhibition of Licence

4. 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

5. (A) The licensee shall take all reasonable precautions for the safety of the public and employees and except with the consent of the Council, shall retain control over all portions of the premises.

(B) No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with the Town and Country Planning (Control of Advertisement) Regulations 1989 or any Order amending or replacing the same.

(C) The premises shall not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained pursuant to the Town and Country Planning Act 1990, the London Buildings Acts 1930-1939, the Building Act 1984 and the Building Regulations 1985 or any legislation amending or replacing the same.

(D) The licensee shall at once notify the Council in writing of any 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.

(E) The licensee shall ensure compliance at all times with the relevant provisions of the Health & Safety at Work etc. Act 1974.

Persons in charge of Licensed Premises

6. (A) The licensee or some responsible person 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 person in charge 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. The person in charge should be conversant with these rules, a copy of which should be held on the premises.

(B) A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.

Conduct of Premises

7. (A) The licensee shall maintain good order in the premises.
- (B) The licensee shall ensure that no part of the premises are used by prostitutes, for soliciting or any other immoral purposes.
- (C) The licensee shall ensure that the public are not admitted to any part or parts if the premises other than those which have been approved by the Council.
- (D) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.
- (E) The licensee 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 has been convicted of an offence under the Sexual Offences Acts 1956 to 1985 or the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986 and shall cause all persons in his employ engaged in the establishment to be decently and properly attired, and he shall not permit the door of any room or place in the establishment for the time being in use for the giving of massage or special treatment to be locked during the period that the client is therein.
- (F) The licensee shall ensure that with the exception of those persons receiving treatment in accordance with the conditions of the licence all clients present in any part of the establishment shall be decently and proper attired and separate changing accommodation for males and females shall be provided.
- (G) 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 had 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.
- (H) No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.

Persons who can give Treatment

8. (A) Except as provided by 8 (c) below, treatment shall only be given by qualified persons who have been approved by the Council and in respect of whom two identical full face passport size photographs taken within the 12 months preceding the application for approval have been submitted to the Council.

(B) Any certificate of qualification (or a true reproduction) of such approved persons together with a recent full face photograph shall be displayed in the reception area so that all persons who wish to receive treatment may easily examine them: and

(C) Treatment may also be given by other person provided:

(I) the person giving treatment is under the personal supervision of a person approved by the Council: and

(II) the Council's consent in writing has first been obtained and is current at the time of treatment.

Restriction on Treatment

9. 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 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 the persons of the same sex as the person giving the treatment, and persons of the opposite sex shall not be present.

Moles

10. Moles shall be treated only in accordance with directions given by a registered medical practitioner with reference to each person to whom treatment is given. A record shall be kept by the licensee of every instance of treatment of moles, such record shall include the name and address of the medical practitioner by whom such treatment was prescribed, the names of the persons giving and receiving such treatment and the date of such treatment: such record shall be produced on the demand of an inspector appointed by the Council.

Eye Protection

11. The licensee shall provide suitable and sufficient eye protection to persons receiving suntanning treatment.

Ultra-violet Radiation Equipment

12. The licensee shall ensure that all ultra-violet radiation equipment installed in the licensed establishment is used and operated in accordance with the Health and Safety Executives guidance note GS18 Commercial Ultra-Violet Tanning Equipment.

Identification of Staff

13. All staff engaged in receiving patrons or in giving treatment or in managing the premises shall wear a name badge in a manner approved by the Council. The name shown shall correspond with that shown on any certificate displayed under Condition 8 (b).

Records

14. Records shall be kept at the premises in a form approved by the Council of persons receiving treatment. The record shall include the name of the person receiving treatment, the time of admittance for treatment and the real name of the person giving treatment. In case of staff approved under Condition 8 (c) the entry shall include both the name of the person giving treatment and of the person supervising.

Tariff

15. All licensable treatment provided at the premise 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

16. There shall be prominently and legibly displayed a comprehensive tariff of charges which shall where necessary be illuminated and be placed in such a position that it can easily and conveniently be read by persons before entering the premises. Where this is impossible, the tariff may with the consent of the Council be displayed in the reception area.

Noise and Vibration

17. The licensee shall ensure that no noise shall emanate from the licensed premises or vibration be transmitted through the structure of the licensed premises which give rise to a nuisance to the occupiers of premises in the vicinity of the licensed premises.

Admission of Council's Officers

18. 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. These officers can 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 LFEPA 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

19. Overcrowding shall not be allowed in any part of the premises.

Change of Use

20. No change of use of any portion of the premises from that approved by the Council's consents has been obtained thereto.

Maintenance

21. The approved arrangements shall be maintained at all times in good order, repair and condition.

Alterations

22. Alterations or additions, whether permanent or temporary, to the approved arrangements including the means of lighting, sanitation or ventilation or to the structure or layout of the premises, shall not be made except with the prior consent of the Council. Provided that this condition shall not require notice to be given to the Council of any work which is necessary for the efficient maintenance of the approved arrangements and which are carried out in accordance with these conditions.

Notice in writing shall be given to the Council of any alteration or addition proposed to be made, and such notice shall be accompanied by full details and, if necessary, by drawings (in duplicate). The work shall not be started until the consent of the Council has been obtained. Notice in writing shall be given to the Council of any intention to carry out work necessitating the use of internal or external scaffolding, cradles or plant. If the Council so require the premises shall be closed to the public until the work has been completed and the scaffolding, cradles and plant have been removed.

NOTE: Any consent under this condition does not relieve the licensee of any necessity to seek a variation in the terms of the licence e.g. changes in the parts of the premises to be licensed and if required by the Council of advertising that application.

Notice of re-opening

23. In the event of any premises being closed for the purpose of effecting alterations, additions, repairs or decorating they shall not be reopened to the public unless and until the consent of the Council shall have been obtained. At least fourteen days notice in writing to the Council shall be given by the licensee of his intention to reopen the premises, and in order that necessary inspections and tests may be made at the premises by the Council's officers, a clear interval of at least 48 hours (not including Sundays and Bank Holidays) shall elapse between the completion of the building and its equipment in accordance with the requirements of the Council and the date of the proposed reopening of the premises.

ENTRANCES, EXITS, GANGWAYS, FASTENINGS AND NOTICES

Maintenance

24. (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. Except with the consent of the Council, bars, wire guards or the like shall not be fitted to windows, nor shall the windows be likewise obstructed in a manner likely to render them unavailable for the purposes of exit in case of emergency.

(b) Any mirrors, pictures, notices or advertisements which may be permitted by the Council shall be attached to or hung upon the walls in positions in which they will not be likely to cause obstruction to egress, and shall be fixed flat against the wall or kept clear of the head-line i.e. 2 metres above the floor.

(c) Advertisement boards or easels shall not be placed in positions in which they are likely to obstruct means of egress or to be overturned. Notice in writing of any proposal to rail off a portion of such premises for the accommodation of such boards or easels shall be given to the Council and the Council's prior consent obtained in the manner prescribed by regulation 21.

(d) All fire-resisting and smoke stop doors shall be maintained self-closing and shall not be secured open

Maintenance of Exits

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

Door Fastenings

26. (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.

NOTE: In smaller premises, the Council may agree to the provision of simple fastenings.

Removable Fastenings

27. Any removable fastenings permitted by the Council for securing exit doors when the public are not on the premises shall be removed before the public are admitted to the premises and shall not be replaced while the public are on the premises. If a keyboard is required by the Council, it shall be provided in an approved position and before the admission of the public the removable fastenings shall be hung on such board, each in an allotted position, and shall remain on the board during the whole time the public are on the premises.

Non-slippery Surfaces

28. All gangways and exitways 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.

Floor Coverings

30. All floor coverings 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 coverings which shall be maintained in a clean condition.

Curtains, Decorations etc.

31. (a) Any curtains which may be permitted by the Council to be hung over doorways, or in or across corridors or gangways, shall be of inherently non-flammable or durably flameproof material, shall not conceal notices and shall be hung so that they can be readily drawn aside and so as not to touch the floor. Any other hangings, curtains or decorations which may be permitted by the Council shall be non-combustible, inherently non flammable or durably flameproof material, or where specified by the Council of material rendered non flammable to the Council's satisfaction.

(b) Temporary decorations shall not be used except with the consent of the Council.

(c) Decorations, curtains and hangings shall be flameproof to the satisfaction of the Council. Application for consent shall be made to the Council in writing together with details including documentary evidence as to the fire proof qualities of the materials to the relevant British Standard and accompanied by full details including adequate samples of the materials proposed to be used and, in the case of temporary decorations, a statement as to the period for which it is desired to retain decorations.

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.

(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 re-charged 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 a fire alarm system has been installed and approved by the Council it shall be efficiently maintained in satisfactory working order. The system shall be maintained and serviced in accordance with BS 5839 and tested regularly in accordance with conditions imposed by the Council. 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 systems shall be at the expense of the licensee.

Outbreak of Fire

34. The Fire Brigade shall be called to any outbreak of fire, however slight. Suitable notices shall be displayed indicating how the Brigade can be summoned.

Sanitation

35 The licensee shall ensure that adequate sanitary accommodation is available in the premises for the 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 illuminated 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 suitable 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.
- (e) Where appropriate the sanitary accommodation shall be adequately indicated.

Sanitary Conditions of Premises

36. 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

37. Each treatment room shall:

- (a) be maintained in a clean and structurally sound condition
- (b) Be adequately illuminated and ventilated
- (c) Be provided with suitable wash-hand basin or basins with a suitable supply of hot and cold water, together with soap, a nailbrush and either a supply of disposable towels or a 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

38. 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

39. 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; and all accumulation or collections of such rubbish, dust and refuse, unless immediately removed from the premises or destroyed; shall be placed in such receptacles and kept there until so removed or destroyed; provided that hot ashes, cinders or any other substance which, when in contact with flammable material, are likely to

cause smoke or fire shall not be placed in the same receptacle as flammable rubbish of refuse.

Such rubbish, dust and refuse shall be removed regularly from the premises.

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

Lighting

40. 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 is in operation continuously during the whole time the premises are open to the public.

41. The general lighting shall be maintained alight and the lighting to "EXIT" or "WAY OUT" notices shall not be 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

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

Electrical Certificates

43. Unless the Council decide otherwise an inspection certificate, as prescribed in the current edition of the Regulations for Electrical Installations issued by the Institute of Electrical Engineers, for the premises licensed for special treatment and any equipment used therein shall be submitted to the Council at least annually or such other time as specified on the certificate. The certificate shall be signed by a qualified engineer.

NOTE: Certificates submitted under this regulation are retained by the Council.

The Council normally requires that any such certificates 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 suitable qualified representative of a Supply Authority or, with the prior approval of the Council, other persons deemed competent.

Lampholders

44. All generally accessible lampholders shall be kept fitted with lamps.

Heating

45. All parts of the premises regularly occupied by public or employees shall be heated to the satisfaction of the Council.

Portable Heating Appliances

46. Portable heating appliances shall not be used at the premises except with the prior consent of the Council.

Gas Cylinders

47. 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.

NOTE: The use of liquid petroleum gas in cylinders is unlikely to be approved.

Guards

48. Any open fireplace and all space heating apparatus of which the surface temperature is liable to exceed 66 degrees Celsius and such other apparatus as the Council may determine, shall be suitable guarded. The guards shall be so constructed and arranged as to enable the apparatus to be cleaned and adjusted.

Gas Installations

49. The gas installation shall comply with the Gas Safety Regulations 1972 as amended by the Gas Safety (Installation and Use) Regulations 1984.

Gas Fired Heating Appliances

50. All piping of the consumer gas installation shall be of rigid hard metal and shall be securely fixed away from electrical wiring and apparatus and shall, where required by the Council be efficiently protected against corrosion.

NOTE:

(I) Any necessary flexible piping shall be of the reinforced type to resist crushing and withstand the maximum internal pressure to which it may be subjected.

(II) Attention is drawn to the British Standard Code of Practice 331 Part 3 regarding the installation of gas pipes.

(III) Gas consuming devices shall be installed to the Council's satisfaction so as to minimise the risk of leakage.

Gas Meter and Electrical Intake Enclosures

51. Any gas meter or electricity meter enclosure provided shall be used exclusively for the accommodation of the meter and its connections and the area around the equipment, whether enclosed or not shall be kept clear and unobstructed.

Ventilation

52. 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 Standard 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

53. (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 they may think fit.

Second Batteries

54. In relation to any storage battery which may be accepted by the Council in connection with escape lighting.

(a) It shall be fully charged before the first admission of the public on any day:

(b) The approved "load" connected to the battery shall not be altered unless the consent of the Council is previously obtained:

(c) A diagram of the connection of the battery and the accepted circuits connected there to shall be exhibited in the battery control room.

(d) The battery shall be under the regular maintenance of a firm of battery manufacturers or, with the approval of the Council, other persons deemed competent, who shall arrange for a thorough examination at least once in every six months, when the battery shall be discharged by taking its full load for one half its rated discharge period of for one hour (whichever is the less). In addition, any automatic switching devices shall be frequently tested.

(e) At least once in every six months a properly certified report as to the condition of the battery, including details of the examination and where appropriate, battery tests shall be submitted to the Council..

NOTE:

The battery voltage (measured at the battery terminals with the battery connected to its load) at the end of the discharge test should be stated in the report. Where self-contained battery powered escape lighting units are installed, the certificate shall state that each unit has been energised by its battery for the requisite period.

(f) In the event of the failure of the normal system of lighting, (I) where the escape lighting has a 1 hour capacity the public required to leave the building within a maximum period of 30 minutes and (II) where the escape lighting has a 3 hour capacity the public shall be required to leave the building within a maximum period of 1 hour and shall not be re-admitted until the lighting from the system has been fully restored and the battery fully recharged.

Diagram of Wiring

55. Where required by the Council a diagram and/or schedule indicating clearly the arrangements of the circuits and sub circuits, the position of the distribution boards and sizes of the cables shall be provided and kept in an accessible position on the premises.

Installation for Unlicensed Portion of Premises

56. In cases in which the premises form part of larger premises, the electrical services for such part shall not be used for any purpose in connection with the remaining parts of the premises, except with the consent of the Council and in accordance with any conditions of such consent.

Appendix Two

LONDON BOROUGH OF TOWER HAMLETS

SPECIAL TREATMENT LICENSING - PROCEDURES

RULES GOVERNING APPLICATION FOR SPECIAL TREATMENT LICENCES

Interpretation

1. In these Rules:-

“Act” means Part II of the London Local Authorities Act 1991

“Applicant” means an applicant for or the holder of a licence as appropriate.

“Licence” means any special treatment licence which the Council can grant under the Act. This includes any associated consent or permission.

“Licensee” means an applicant for or the holder of a licence as appropriate.

“Objector” means any person who is objecting to an application specified in rule 7 and who has complied with its terms.

“Occupier” means the place for which a licence is sought or for which a licence is in force.

“Premises” means the place for which a licence is sought or for which a licence is in force.

“Revocation” means a proposal to revoke the licence under Sections 9 and 14 of the Act.

“Council” means the London Borough of Tower Hamlets.

Plans and Specifications

2. An applicant shall submit such plans and specifications of the premises concerned as may be required by the Council within two months of being advised of the Council's requirements unless an extension of time is granted by the Environmental Health Department.

NOTE: When the licence application forms are submitting to the Council, the Environmental Health Department will arrange for a survey to determine the suitability of the premises concerned with a view to ensuring public safety. Four copies of plans and specifications will subsequently have to be submitted by the applicant for formal approval and record purposes.

Application Forms

3. An application for a licence shall be made on the form provided by the Council and if required shall be advertised in accordance with Nos 4 and 5 of these Rules. If an application has been required to be advertised has not been determined within twelve months of its submission to the Council it shall be readvertised in accordance with rules 4

and 5 unless an extension of time is granted by the Council. The form of application shall be signed by the applicant, or a solicitor or other duly authorised agent acting on behalf of the applicant.

Exhibition of a Notice at the Premises

4. On the date on which the application is made the applicant for a new licence shall arrange for a notice or, (if the premises are large or front more than one street), notices of the application to be put up at the premises using the form provided by the Council. The notice(s) must be put up and kept exhibited for not less than 28 days on a part of the premises where it can be easily seen and read by persons in the street or any adjoining public place. With the consent of the Council, the notice(s) may, if necessary, be exhibited near the premises.

The 28 days shall start on the date the application is delivered to the Council or, if posted, on the date shown on the postmark of the envelope addressed to the Council and the notice shall bear this date.

If this rule is not strictly complied with, the Council will require the notice to be re-dated and kept exhibited at the premises for 28 days from this date.

Newspaper Advertisements

5. (a) Within 7 days of the date on which the application is made for a new licence, notice of the application in the form required by the Council shall be published (at the expense of the applicant) in a local newspaper which circulates in the locality in which the premises are situated and which is on sale at local newsagents.

NOTE: A London wide newspaper such as the "The Standard" is NOT regarded as a local newspaper for the purposes of this rule.

(b) Within 14 days of the date on which the application was made the applicant shall send one complete copy of the newspaper containing the advertisement to the Council.

(c) In the event of either or both of the time limits specified in (a) and (b) above not being complied with the last day for lodging objection to the application shall be extended to 21 days from the date of the newspaper advertisement or to the date by which the complete copy of the newspaper has been received by the Council whichever is the later.

This rule shall not apply to an application for a transfer or renewal of a licence unless the Council specifically so requires.

Modification or Waiver of Conditions of Licence or Extension of Licensed Area

6. A licensee applying (whether or not at the same time as an applicant for transfer or renewal) for the modification or waiver of any of the terms, conditions or restrictions of a licence or for an amendment of a licence relating to an extension of a licensed area shall comply, where appropriate, with Nos 2, 4 and 5 of these rules as required by the Council.

Objections

7. A person who wishes to object to:

- I. the grant, transfer or renewal of the licence: or
- II the modification or waiver of a licence conditions: or
- III amendment of the licence where this would extend the licensed area

hall within the time specified in the notice, put up at the premises or contained in the newspaper advertisement, relating to the application write to the Head of Environmental Health (Commercial) giving in detail the reasons for objection. The Head of Environmental Health (Commercial) shall forward to the applicant a copy of every valid written objection.

8. A late objection will only be accepted by the Council in the most exceptional circumstances.
9. The Council will not accept an objection where it considers that the grounds of objection contains matters which it cannot take into account.
10. An opposed application shall be decided at a hearing where evidence is given orally and in public unless the Policy and Strategy Committee or the Licensing Sub-Committee decide otherwise.
11. At any public oral hearing in of an application, an objector shall not be allowed to raise any matter not referred to in the written objection.
12. At any public oral hearing in of an application the applicant and the objector shall attend in person or, if the application or objection is made by a body corporate, business firm, society, associated or other group, a duly authorised representative shall be present.
13. If any person who has written to the Head of Environmental Health (Commercial) objecting to the granting of a licence fails to attend the public oral hearing, the licensing Sub-Committee will hear and consider any evidence and arguments put forward by or on behalf of the applicant in relation to the written objection received, the Sub-Committee will take into account in considering the importance to be attached to the objection that the objector was not available to be questioned about his statements.

Procedure At And After Oral Hearing In Public

14. A report will be put before the Sub-Committee, prepared by the relevant officer of the Council, outlining important aspects of the application. In addition the Applicant will provide a detailed plan of the premises and , where appropriate, an Ordnance survey sheet indicating other premises within a suitable radius which are licensed whether for special treatments or for public entertainment or as night cafes.
15. At the start of the Hearing the Chairman will introduce himself and the other members of the Sub-Committee.
16. He will then invite the relevant officer of the Council to introduce the report. This officer will outline impartially the matter before the Sub-Committee (eg the application, revocation proposed etc) give any relevant background information and call any necessary officer to give factual information (eg as to the technical arrangements of the premises). These officers can be cross-examined by any of the parties present or questioned by

members of the Sub-Committee on matters relating to their professional expertise and are subject to re-examination by the relevant officer of the Council.

NOTE: See Rule 17(v) for an explanation of these terms.

17. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the appropriate officer and he will then outline the procedure that will be followed for the remainder of the hearing.

(I) The objectors present their cases before the applicant presents his.

N.B In appropriate cases the Sub-Committee may during or at the end of the objectors case wish to establish whether the objectors are opposed to the application in its entirety or, for example are objecting to the lateness of the hours sought and not to the grant of the licence itself.

(II) Subject to Rule 18 below, when all objectors have been heard, the applicant may present his case.

(III) Each party (or his representative) is entitled to address the Sub-Committee as of right on only one occasion - either before calling his evidence or immediately after he and/or his witnesses have completed their evidence.

(IV) Each person giving evidence may be cross-examined by the opposing party or parties and by members of the Sub-Committee.

NOTE 1 Where the applicant or objector appears without representation and wishes to address the Sub-Committee the Chairman should ask him whether he is prepared to submit to cross examination. (Less importance will be attached to a statement that is not subjected to cross examination).

NOTE 2 Objectors to an application may not question each other but an objector may question his or her witness(es).

(V) When a person is called to give evidence:-

(a) He is first asked to state his full name and address:

(b) He is questioned by the person calling him (Examination in Chief).

(c) He may be questioned by the other party or parties or their representative (cross - examination).

(d) Throughout the presentation of the respective cases for the Objector and the Applicant questions may not be put by Members of the Sub-Committee. Such questions will normally be put immediately following cross-examination. (Following the questions by Members the Sub-Committee they may have to consider whether a further opportunity for coss-examination should be afforded to the other party or parties on "new" evidence introduced as a result of the replied to Member' questions).

(e) He may be questioned further by the person who called him. These questions must be limited to matters which have already arisen in previous examination or Members' question. (Re-examination). No new matters may be raised at this stage.

(IV) Unless the Sub-Committee rules otherwise, or one of the parties objects, all witnesses may be present in the Licensing room throughout the hearing. Once they have given evidence they shall remain in the room until either the hearing is closed or they are released by the Chairman.

18. The Councillor for the Ward in which the premises of either the applicant or the objector(s) are situated may address the Sub-Committee or may submit written representations in respect of the application regardless of whether or not he/she is an objector or is being called by any party.

NOTE: (I) Before a Ward Councillor addresses the Sub-Committee he must first make a declaration that he has not previously discussed the application with the Members of the Sub-Committee and will take no part in the determination of the application.

(II) If given by way of written submission the Chairman will indicate that the Sub-Committee will take into account the fact that the submission of the Ward Councillor cannot be tested by cross-examination.

Documents

19. Where one of the parties wishes to submit a document at the hearing the following procedure should be followed:-

(a) The Chairman shall establish whether the opposing party or parties (or their representatives) have already seen the document and whether they have any objection to its submission.

(b) If the other parties have not previously seen the document the Chairman will request that it be first passed to them (or to their representative) so they can decide whether they object to it being submitted to the Sub-Committee and if so the grounds of their objection.

N.B For this purpose it may be necessary to allow time for study of the document.

(c) If there is an objection to the submission of the document both parties may give their reasons for or against the proposed submission to the Sub-Committee. The Legal Advisor to the Sub-Committee may also give advice before the Sub-Committee decide whether to allow the document to be submitted.

N.B. In some cases it may be necessary for them to see the document before making a decision.

20. If there has been no objection to the submission of a document or if the Sub-Committee has ruled that it may be submitted, the document will normally be read aloud by the party submitting it or by his representative. If the submission is a letter or written statement by someone who is not present and its submission has been opposed by one of the parties, the Chairman, (if the Sub-Committee have ruled that it should be admitted) will indicate that the weight of evidence (importance) account the fact that the signatory of the letter or the maker of the statement is not present to be cross-examined.

NOTE: At least 6 copies should be provided of any document which is to be submitted to the Sub-Committee.

Decision

21. At the end of the hearing the Chairman will announce that the hearing is adjourned to enable the Sub-Committee to deliberate in private and will return as soon as possible to announce their decision. The Sub-Committee will normally be accompanied by the relevant officers of the Council but the decision shall be arrived at by Members of the Sub-Committee only. Sometimes the Sub-Committee will go to a private room or they may ask the parties concerned and the public to leave.

22. The Sub-Committee may decide to grant the application in whole or in part, to refuse the application, or to make a revocation and may attach any additional conditions, if granting a licence, they consider appropriate.

Notification of Decision

23. The Chairman will normally announce the Sub-Committee's decision at the end of the hearing. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

Waiver of Rules

24. In any particular case, any of these rules may be waived, altered or modified by the Committee, Sub-Committee or their Chairman or in the case of Rules 2, 3, 4, 5, 6, 7, 8 and 9 by a duly authorised officer of the Council.

BASIS FOR DECISION

Appendix 3

No premises shall be used in the Borough as an establishment for special treatment except under and in accordance with a Special Treatment Licence.

Treatment licence:

Treatment licensing conditions are in Appendix 1 and 2.

The Council may only refuse to grant a licence on the following grounds.

- 1) The premises are not structurally suitable.
- 2) There is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locally or the use to which any premises in the vicinity are put.
- 3) The persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence.
- 4) The person giving special treatment is not suitably qualified.
- 5) The premises have been or are being improperly conducted.
- 6) The premises are not provided with satisfactory means of lighting switches and ventilation.
- 7) The means of heating the premises are not safe.
- 8) Proper precautions against fire on the premises are not being taken.
- 9) They are not satisfied as to the safety of the special treatment given.
- 10) Satisfactory means of escape in case of fire and suitable means for emergency lighting are not provided on the premises.
- 11) The applicant has, within the period of 5 years immediately preceding the application to the council, been convicted of an offence under the Act.

There is an appeal procedure to the Magistrates' court acting for the petty sessions in which the premises are situated by way of complaint for an order.