

LICENSING COMMITTEE - 21 JANUARY 2016

THE LONDON LOCAL AUTHORITIES ACT 1991 – ADOPTION BY THE COUNCIL OF REQUIREMENTS OF THE ACT WITH REGARD TO SPECIAL TREATMENT LICENSING

SUMMARY:

This report asks the Committee to recommend to the Council that it adopts the provisions of Part II of the London Local Authorities Act 1991, which governs the licensing of premises providing 'special treatments'; and that the Council delegate the responsibility for licensing such premises to this Committee.

RECOMMENDATION:

That the Committee asks the Council to:

- (1) resolve to adopt Part II of the London Local Authorities Act 1991; and subject to making such a resolution; and
- (2) give the responsibility for licensing premises to provide 'special treatments' under the provisions of Part II of the London Local Authorities Act 1991 to its Licensing Committee and update the Committees' 'orders of reference' to reflect this delegation.

1. Introduction

Part II of the London Local Authorities Act 1991 gives London Borough Council's improved power to licence and control premises for massage and special treatment. However, it falls to each London Borough to individually pass a resolution so as to adopt the provisions of Part II of the Act, which governs the licensing of establishments providing 'special treatments'. To date the London Borough of Bexley has not passed any such resolution.

The purpose of this report is to ask the Committee to recommend to the Council that it resolves to adopt the provisions of Part II of the London Local Authorities Act 1991; and, if this request is agreed, to add the responsibility for the governance of special treatment licensing to the 'orders of reference' of the Committee.

2. Background Information

The London Borough of Bexley currently operates a registration scheme which is limited to only special treatment that pierces the skin, which includes tattooing, acupuncture, electrolysis and cosmetic piercing. This scheme requires the both the individual who pierces the skin and the premises where the skin piercing is carried out to be registered. Such registration is required by virtue of Section 19 of the Greater London Council (General Powers) Act 1981, under which the Council has made three sets of bylaws setting out terms and conditions of the registration.

The registration scheme is administered and enforced by the Health & Safety Team, which sits within the Council's Public Protection Service. There is no ability to refuse a registration and only the Court can suspend or revoke a registration.

At present the Council has 53 premises registered under the scheme and 118 individuals.

3. Part II of the London Local Authorities Act 1991 - Special Treatment Licensing

Part II of the London Local Authorities Act 1991, if adopted, would extend the range of 'special treatments' that would require a licence.

In addition to acupuncture, tattooing, electrolysis and cosmetic piercing, all of which are caught by the current registration scheme, any premises used to provide massage, manicure, pedicure, light, electric or other special treatment of a like kind; together with those providing vapour, sauna or other baths would be caught.

However, special treatments provided at premises not used for gain or reward are exempt, as are those provided at a hospital or nursing home. Furthermore the provision of any special treatment by a medical practitioner or other specified registered health care professional (such as an osteopath or physiotherapist) is exempt.

The Act allows the Council to prescribe the terms, conditions and restrictions it deems appropriate with regard to the licensing process. This includes the setting of fees at a level to fully recover its cost in administering and enforcing the licensing regime.

With regard to the imposition of conditions the Act suggests that such conditions may relate to:

- (a) the maintenance of public order and safety;
- (b) the number of persons who may be allowed to be on the premises at any time;
- (c) the qualifications of the persons giving the special treatment;
- (d) the taking of proper precautions against fire, and the maintenance and proper order of means of escape in case of fire, means for fighting fire and means of lighting, sanitation and ventilation of the premises;
- (e) the maintenance in safe condition of means of heating the premises;
- (f) the hours of opening and closing the establishment for special treatment;
- (g) the safety of any equipment used in connection with the special treatment and the way in which the treatment is given;
- (h) the cleanliness and hygiene of the premises and equipment; and
- (i) the manner in which the establishment is operated and the way it is advertised.

The Act allows applications for the grant of a licence, together with those seeking to renew, transfer or vary an existing licence, to be made. The Council has the ability to refuse any application and, in specific circumstances, can revoke a licence.

If adopted it is proposed that the Licensing Team is responsible for the administration of the licensing process, with the Health & Safety Team being responsible for compliance and enforcement.

4. Adoption - Part II of the London Local Authorities Act 1991

For Part II of the London Local Authorities Act 1991, which governs the licensing of special treatment establishments, to be effective in the London Borough of Bexley the Council must first resolve to adopt its provisions.

Should the Council pass such a resolution it must, when doing so, fix “the second appointed day”. This is the date on which provisions of the Act are to become effective. The Council must then advertise, by way of a notice published in a local newspaper, that it has:

- resolved to adopt the Act and set “the second appointed day”; and
- explain the general effects of the provisions of the Act coming into force.

There must be at least three months between the date that this notice is published and the date set as “the second appointed day”. The report recommends that the second appointed day is fixed as 01 July 2016.

The Council must also decide who it wishes to be responsible for governance of the licensing process and delegate this function accordingly. The report recommends that the Council gives this function to its Licensing Committee.

The table below sets out the suggested timescales:

21 January 2016	Licensing Committee agrees to ask Council to: a) adopt the provisions of the Part II of the London Local Authorities Act 1991; b) set the “second appointed day” as 01 July 2016; and c) delegate the responsible for the governance of the licensing of special treatment to it
02 March 2016	Council considers Committees request and resolves to adopt the provision of Part II of the Act, sets “the second appointed day” as 01 July 2016 and delegates the governance of the licensing process to its Licensing Committee
03 March and 18 March 2016	Newspaper notice is published
22 March 2016	Licensing Committee meet to agree terms, condition and restriction of the licensing process and set fees.
23 March to 30 June 2016	Engagement with local Trade
01 July 2016	Date new licensing regime comes into force

5. Recommendation

The provisions of Part II of the London Local Authorities Act 1991 afford increased public protection with regard the provision of massage and special treatments. The Act captures treatments beyond those governed by the current registration system. It also gives the Council the ability consider the suitability of an applicant and the qualifications of the individual giving the treatment, together with the power to refuse an application or revoke an existing licence. The recommendation is therefore that the Committee ask the Council to:

- a) adopt the provisions of the Part II of the London Local Authorities Act 1991;
- b) set the “second appointed day” as 01 July 2016; and
- c) delegate the responsible for the governance of the licensing premises providing special treatments under the provisions Part II of the London Local Authorities Act 1991 to its Licensing Committee and amend the Committees’ orders of reference accordingly.

Number 1 of the Committees’ orders of reference currently reads:

(1) To make arrangements, including standard rules and conditions, scale fees and related matters, to enable the Licensing Sub-Committee and appropriate Deputy Directors to receive and, if appropriate, approve licence applications and to grant authorisations and carry out registration functions for those matters set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; the Local Government (Miscellaneous Provisions) Act 1982 as it relates to the licensing of sex establishments; the Licensing Act 2003; the Gambling Act 2005; and any amending or successor legislation as it relates to inter alia, the licencing of gambling; sale and supply of alcohol; public entertainment; late night refreshment; and sexual entertainment venues.

It is recommended that after the words ‘sex establishments’ and before words ‘the Licensing Act 2003’ the following words are inserted:

‘Part II of the London Local Authorities Act 1991 as it relates to the licensing of establishments providing special treatments’

6. Summary of Legal Implications

There are no legal implications arising from the grant of any of the licenses save as already set out in the report.

7. Summary of Financial and Other Implications

There are no specific financial, environmental health, crime and disorder, equal opportunities or human rights implications arising from this report.

As explained in the body of the report fees will be set at a level so as to fully recover the cost to the Council in administrating and enforcing the provision of Part II of the London Local Authorities Act 1991.

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

List of Background Documents

Section 19 of the Greater London Council (General Powers) Act 1981; and Bylaws made under it

Part II of the London Local Authorities Act 1991 - Special Treatment Licensing

Bexley Council's 'Licensing Committee Orders of Reference'

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