



City of Westminster

Licensing Committee Report

Meeting:	Licensing Committee
Date:	14 March 2012
Classification:	<i>For General Release</i>
Title:	Changes to the Council's Therapist Registration Scheme
Wards Affected:	All
Financial Summary:	A reduction in registration volumes will have a direct correlation in the FTE required to operate the non-statutory registration scheme. The current scheme runs at a deficit to the council and as a result the allocated FTE are better used in other licensing areas such Temporary Event Notices.
Report of:	The Operational Director for Premises Management

1. Executive Summary

1.1 This report seeks approval to change Westminster's Therapist Registration Scheme (TRS). A standard condition attached to special treatment licences, issued under Part II of the London Local Authorities Act 1991, states that only persons registered with the Council may give special treatment.

1.2 A summary of the changes are:

- Registration will only be a requirement for therapists providing higher risk treatments. Therapists working in licensed special treatment premises who provide lower risk treatments will no longer be required to register (higher and lower risk treatments are detailed in Appendix A).
- Amend existing and introduce new standard conditions for special treatment premises so that therapists that provide higher risk treatments must be registered with the council and makes a new requirement for the premises licence holder to ensure that practitioners providing lower risk treatments are suitably qualified.

- Introduce a new 'risk' based inspection programme for licensed special treatment premises.

1.3 By introducing these changes it will reduce the overall demand for registration which will have the following key impacts:

- Reduce the regulatory burden on businesses
- Significantly improve the customer experience
- Support significant improvements to operational delivery including an overall reduction in processing time and a reduction in processing costs
- Free up officer resources to meet the additional statutory demands anticipated from the new Temporary Events Notification (TENs) process which will be implemented later in 2012.

2. Recommendations

2.1 That the committee:

2.1.1 Approve the proposed amendments as described in Appendix B to the standard conditions for special treatment premises licences

2.1.2 Approve the proposed new therapist registration scheme application criteria as stated in Appendix C and

2.1.3 Approve that all of the changes approved by the Committee relating to the therapist registration scheme will take effect on a date specified by the Operational Director for Premises Management.

3. Background, including Policy Context

3.1 The Therapist Registration Scheme (TRS) runs alongside Part II of the London Local Authorities Act 1991 relating to special treatment premises. It was introduced in 1995 as a way of managing standard condition 8(a) attached to special treatment licenses which states that only persons registered with the Council may give special treatment.

3.2 Prior to the introduction of the scheme, individual therapists working in a special treatment premises, were named on the premise licence. With the high turnover of staff within this sector, and the need to update licences when any changes were made, the administration of this soon became unmanageable.

3.3 Applicants can register to give a range of special treatments which are classified according to whether they are higher or lower risk to the public or therapist. There is no fee payable for registrations. However, a fee of £25 per therapist is charged on each special treatment premises licence to support the cost of providing the scheme.

- 3.4 Registration is granted for a period of 10 years (increased from a 3 year renewal period in early 2011).
- 3.5 Compliance with the registration scheme is checked annually during a planned programme of inspections of licensed special treatment premises.

4. Reasons for Decision

- 4.1 A review of the scheme completed between September 2011 and January 2012, recommended limiting the scope of the scheme as well as making substantial changes to the operational processes. The proposed changes aim to achieve the following:
- Reduce the regulatory burden on businesses
 - Improve the customer experience
 - Remove backlogs
 - Reduce processing time
 - Reduce processing costs
 - Reduce complaints
 - Bring the scheme in line with comparable licensing schemes
 - Set clear performance standards

A full report on the review is available in the background papers.

- 4.2 The scope of the registration scheme has extended beyond the purpose for which it was originally intended. Demand for the service has become unmanageable within existing resources resulting in significant operational delivery issues and a poor service for our customers.
- 4.3 High demand for registration is attributed to the fact that the scheme is not limited to therapists working within Westminster special treatment premises, meaning any individual can apply to register with our scheme.
- 4.4 Since 2003, an average of 940 new applications has been received each year however, the council has seen a dramatic increase in applications this financial year. There are currently approximately 2,400 therapists registered or pending registration. There are currently 116 higher risk and 249 lower risk special treatment premises licences issued by the council. The number of therapists linked with a special treatment premise in Westminster is 563 therapists that provide lower risk treatments and 1043 that provide higher risk treatments. Even taking into consideration the high turnover of staff, these figures indicate that a large number of therapist not working in Westminster special treatment premises are choosing to register with our scheme.
- 4.5 The benefits associated with not limiting the scheme to therapists working in Westminster premises include the flexibility to the industry of allowing staff to move freely between premises both in and outside of Westminster and rising

industry standards beyond Westminster. However, the current scheme is not sustainable within existing resources and demand for the service has become unmanageable

- 4.6 The current inspection programme of special treatment premises happens annually which is the renewal period for a licence. Although carrying out at least one inspection a year is resource intensive, it is felt necessary at the present time and considering the proposed changes, to maintain this level of inspection. There will be a need to ensure that the proposed changes within this report are managed correctly by the licensees and that they are ensuring that therapists that will no longer require registrations from the council are suitably qualified.
- 4.7 A review of the inspection regime for special treatment premises will be conducted before the next fee review for that regime in early 2013. It may at that point be possible to introduce a risk based inspection programme for these premises. For example premises that provide higher risk treatments may be visited annually where as lower risk premises may be inspected every three years, following a complaint or if any concerns are raised relating to the management of the premises.

5. Health and Safety Implications

- 5.1 By removing the requirement for lower risk therapists to register, the decision as to whether a therapist is suitably qualified is moved from the Council to the premises licence holder themselves. We have developed guidance and controls to ensure that license holders are properly checking the qualifications of their staff through application, standard conditions and enforcement processes.
- 5.2 License holders will continue to have a general duty of care to public under the Health and Safety Act 1974 and to ensure that any person giving treatment is competent.

6. Financial Implications

- 6.1 The existing staff resources are not sufficient to deal with the demand for the registration under the scheme resulting in large backlogs in processing registrations. Limiting the scheme would go some way to redressing the balance between demand and capacity.
- 6.2 Based on the volumes received in 2011/12 to date (1932 applications) the service must allocate 1.5 full time equivalent (FTE) members of staff from existing resources to enable it to deal with the growing demand. This would have a significant impact on other statutory functions. To enable the service to process the increase volumes of therapist applications and the potential increase in work from Temporary Event Notices (TEN's) from April 2012 the service would have to apply for a growth bid for an additional FTE at approximately £27,779.

- 6.3 As part of the changes to TEN's Environmental Health will become a responsible authority and be able to object and place conditions on TEN, where they have never been able to do before. This may require additional resources from both the Environmental Health and Licensing Teams. Redeploying resources from the TRS to the new TENs process would significantly reduce any potential growth bid for additional resources. It is highly unlikely that there will be an increase in the fee for TEN's so the costs relating to processing them must be met from existing resources.
- 6.4 This function is a discretionary function as it has no statutory basis apart from the link to the standard conditions for special treatment premises licences. The registration scheme is partly funded by the special treatment premises licences through their licence fee. However, that does not cover the full cost of providing this service and the council cannot charge therapists an application fee.
- 6.5 Under these proposals the number of therapist applications a year will reduce by approximately 1200 applications. This would negate the need for the additional 1 FTE and free up some capacity (approximately 0.3 FTE) to meet the additional demands anticipated by the changes to TEN's. Due to this reduction it will be possible to reduce the level of funding from special treatment premises licences. It is proposed with the General Licensing Fee Review report that the fee for therapists (£25 per therapist) be removed and the fee levels restructured. It is hoped that this reduction will enable existing licensees to afford the fee in the current economic environment.

7. Legal Implications

- 7.1 There are no legal requirements under Part II of the London Local Government Act to run a registration scheme for therapists. The Council had established the therapist registration scheme via standard condition 8(a) which states;
- “Only those persons currently registered by the Council may give Special Treatment and may only give those treatments specified on the registration document. Such persons shall wear an identification card supplied by the Council.”
- 7.2 Part II of the London Local Authorities Act 1991 created a licensing regime for premises that are used for the reception or treatment of persons requiring special treatments. The Act makes it an offence for any premises to operate as a special treatment establishment within Westminster without a licence issued by the authority.
- 7.3 Some premises can be exempted from the requirement for a licence if the premise is not used for gain or reward or if special treatments are carried by or under the supervision of a medical practitioners or any bona fide member of a body of health practitioners.

7.4 The Council can grant an applicant a licence on such terms and conditions and subject to such restrictions as may be specified on that license. The Act lists some circumstances that the Council may consider attaching conditions. These are

- 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 in 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;
- i) The manner in which the establishment is operated and the way it is advertised.

7.5 The Council has established its own standard conditions relating to special treatments premises that cover the above and go further to ensure the safety of the premises. In addition to the standard conditions the Council can and do add special conditions to the licence relating to the specific premises. The Council can amend its standard conditions at any time.

7.6 The licensee of a special treatment premises licence must comply with all of the standard and special conditions otherwise he will be committing an offence under section 14(2) of the Act. A conviction under this section carries a maximum fine of £2,500.

8. Consultation

8.1 The proposals have been developed by a project group of officers working within licensing, environmental health and premises inspectors.

Appendix

Appendix A – List of the Council’s categorised Higher and Lower Risk Treatments

Appendix B – Proposed Amendments to the Council’s Standard Conditions for Special Treatment Premises

Appendix C – New Therapist Registration Scheme Application Criteria

**If you have any queries about this Report or wish to inspect any of the
Background Papers please contact:**

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BACKGROUND PAPERS

Review of Westminster City Council Therapist Registration Scheme, January 2012

List of lower/higher risk treatments

Lower Risk Treatments						
(Tick below)						
1	Reflexology		2	Infra Red	3	Sauna & Steam*
4	Aromatherapy		5	High Frequency	6	Shiatsu
7	Manicure		8	Flotation Tank*	9	Massage
10	Colour Therapy		11	Lymphatic Drainage	12	Spa & Bath*
13	Micro Current Therapy^		14	Pedicure	15	Ultra Sound
16	Facial		17	Faradism	18	Nail Extensions

Higher Risk Treatments						
(Tick below)						
1	Acupuncture		2	Body Piercing**	3	Intense Pulse Light^^
4	Laser^^		5	Micropigmentation**	6	Tattooing**
7	Ear Piercing		8	Electrolysis	9	Chiropody (Podiatry)
10	Ultra Violet Tanning*					

*Although there are nationally recognised qualifications to allow you to provide these treatments please note that in-house training certificates and/or proof of relevant experience gained is also accepted.

**Persons applying for Tattooing, Body Piercing and Micropigmentation will be required to attend an interview at the premises and you will therefore be contacted during the application process.

^ Micro Current Therapy also covers the following special treatments – Diathermy and Galvanism.

^^Persons applying for Laser or IPL require the prerequisite of NVQ Level 3 and ‘Core of Knowledge’ training. Where the applicant is a qualified nurse then only ‘Core of Knowledge’ training is required.

Amendments to Special Treatment Premises Licence Standard Conditions.

Amend existing Standard Condition 8(a) to condition 8 and to read:

8. Only those persons currently registered by the Council may give Special Treatments identified as higher risk treatments and may only give those treatments specified on the registration document issued by the Council. Such persons shall wear an identification card supplied by the Council.

Delete Standard Condition 8(b)

Delete and replace condition 10 to read:

- 10 (a) The licensee shall ensure that all unregistered special treatment practitioners providing lower risk treatments are suitably qualified and trained as defined in the Council's Special Treatment Qualification and Training Guidance document to provide that treatment.
- (b) Records shall be kept on the premises, in a form approved by the Council of every unregistered special treatment practitioners name, date of birth, home address, training and qualifications.
- (c) The records described in paragraph (b) above shall be kept on the premises for a period of 1 year from the date when that practitioner ceases providing treatments at that premises.
- (d) Records shall be kept on the premises, in a form approved by the Council, of the name of the persons receiving treatment, the time of admittance for treatment and the name of the registered therapist or unregistered special treatment practitioner giving that treatment.

Therapist Registration Scheme Application Criteria

All applicants for registration as a registered therapist must be:

- aged 16 years or older,
- be suitably qualified or trained to carry out the treatments they provide, and
- either be employed or have a letter of intent for employment from a licensed Westminster special treatment premises.

To apply for registration as a therapist in Westminster all applicants must;

- Complete the Council's application form and sign the declaration
- Provide one passport sized photograph with the application which clearly shows the likeness of the applicant.
- Provide a copy of photographic ID, such as passport, photocard driving licence, Identity Card, etc. Please note that the photographic ID must be a recognizable proof of ID. Further information on photographic ID is contained within the application guidance notes or on the Council's website.
- In addition to providing a copy of the photographic ID, provide proof of address. Further information on what is acceptable as proof of address is available in the application guidance notes or on the Council's website.
- Copies of relevant qualifications and/or proof of training for the treatments that the application is seeking registration for. If the qualification or training documents are not in English then they must be translated by UK NARIC. Information relating to UK NARIC, a list of accepted qualifications and/or training records relating to the treatments is available in the application guidance notes or on the Council's website.
- Proof of employment or intent to employ if a registration is granted from a licensed Special Treatment Premises. The Council will only process an application for a therapist registration if the applicant will be working in Westminster. Please note that proof of employment or intent to employ will be accepted from unlicensed premises if a valid application has been submitted prior to the therapist application being made.

If a registration is granted then it will be issued for 10 years. If the registered therapist wishes to add or remove a treatment from the registration a variation application must be made to the Council. No therapist can provide higher risk treatments that are not authorised by their registration. If a therapist is found to be providing treatments which they are not registered for or not suitably qualified/trained to give may have their registration suspended or revoked.

If a therapist changes their name, following marriage, address or other contact details they must notify the Council as soon as practicable in writing.