

Southend-on-Sea Borough Council

Report of Deputy Chief Executive (Place)

To
Cabinet

On
13 March 2018

Agenda
Item No.

Report prepared by:
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Services

Licensing of Massage or Special Treatment Premises and Codes of Practice
Executive Councillor (Public Protection): Cllr Cox
A Part 1 / Part 2 Public Agenda Item

1. Purpose of Report

- 1.1 To update the standard conditions used to grant and renew the licences for persons carrying on establishments for massage or special treatments (**Appendix 1**) under the Essex Act 1987. To further adopt best practice Codes of Practice specific to the different treatments being offered (**Appendices 2-7**). The Codes of Practice will require updating as new treatments and technologies emerge.

2. Recommendation

- 2.1 **Cabinet recommends that the Council specifies in each Massage or Special Treatment Licence the updated Conditions and the Codes of Practice relevant to each type of operation. In doing so, Cabinet is thereby approving the appropriate code of practice for each type of licence.**
- 2.2 **Cabinet recommends that the Codes of Practice continue to be updated in line with best practice and emerging new treatments.**

3. Background

- 3.1 The Council, through the licensing regime, maintains high standards in respect of the operation of establishments for massage or special treatment through licencing under Part VI of the Essex Act 1987.
- 3.2 Section 16(2) allows the Council to refuse to grant or renew or revoke a licence where:
- The premises are unsuitable for the provision of massage or special treatments.
 - Adequate professional, technical or other staff is not available for the administration of massage or special treatments.
- 3.3 Section 15 (2) allows the Council to specify terms and conditions when granting or renewing a licence for massage or special treatments.

- 3.4 The adoption of the updated conditions and Codes of Practice will satisfy the criteria for granting, renewing and transferring premises operating as Massage or Special Treatment establishments licenced under Part VI of the Essex Act 1987.
- 3.5 As at 1st April 2017 there were 67 premises licensed for massage or special treatments. Details of the various types of licensed treatments provided are outlined in **Appendix 9** and include sports massage, aromatherapy massage, traditional massage, spa pools, UV light treatments and sauna and steam rooms amongst others.
- 3.6 The Council operates to the principles detailed in the Regulatory Services Enforcement Policy. The Regulatory Services Enforcement Policy was adopted through the Cabinet process. It sets out the Council's duty with respect to having regard to the principles of good regulation, which are contained in the Legislative and Regulatory Reform Act 2006 and the Regulators Code.

4. Other Options

- 4.1 The options available to the Council as set out below:
- a) Continue with the existing conditions in these establishments.
 - b) Utilise the updated standard conditions and Codes of Practice to enable the local authority to satisfy itself that:
 - the premises are suitable for operation; and
 - those working in the establishments are technically qualified to do so.

5. Reasons for Recommendations

- 5.1 To enable the Council to continue to maintain best practice and to keep pace with the development of new treatments which are licensable under the Essex Act 1987 for massage or special treatment.

6. Corporate Implications

6.1 Contribution to Council's Vision & Corporate Priorities

The adoption of the conditions will:

- a) Contribute to the prosperity and excellence priority. The use of updated conditions and Codes of Practice will assist establishments undertaking these activities to comply with their duties and to provide appropriate and safe standards for operation.
- b) Assist businesses by providing business advice through the provision of a clear set of Codes of Practice.

6.2 Financial Implications

- 6.2.1 There is an annual licence fee which is calculated to cover the cost of administering the system without making a profit. However fee levels do not form part of this consultation.
- 6.2.2 The businesses regulated were consulted on the implementation of the new conditions and Codes of Practice. There were no responses from business indicating that there would be a negative effect on the economic growth of their businesses.

6.2.3 Business will be given time to implement the new conditions and Codes of Practice where they do not affect public safety. Guidance will be provided by Officers to enable them to do so.

6.3 Legal Implications

6.3.1 The adoption of the updated conditions and specific Codes of Practice will ensure that the local authority is able to satisfy itself that the establishments are suitable and that those administering treatments are technically competent to do so.

6.4 People Implications

6.4.1 Adoption of the new conditions and specific Codes of Practice will enable local residents to satisfy themselves that where a licence has been granted the business is using best practice.

6.5 Property Implications

6.5.1 No property implications

6.6 Consultation

6.6.1 Formal Consultation commenced on 11th January 2017, with a request that responses be received by 3rd April 2017. The consultation exercise involved the following elements:-

- a) The despatch of an explanatory letter to all licensed premises advising of the proposals and the availability of the updated general conditions and associated draft Codes of Practice.
- b) The sending of emails to a range of interested parties, including businesses, other regulators voluntary and support groups.
- c) The same material, with a link to the updated general conditions and proposed Codes of Practice, was placed on the Council's website.
- d) Continuing response to enquiries, and requests for paper copies of the updated conditions and the draft Codes of Practice.
- e) The issuing of a press release at the start of the consultation process.
- f) 14 responses were received which are attached as **Appendix 8**. There was only one concern raised with respect to provision of hand washing. No other comments were made.

6.7 Equalities and Diversity Implications

6.7.1 An Equalities Impact Assessment has been undertaken and findings have been taken into account in the production of the report.

6.8 Risk Assessment

6.8.1 The failure to implement these conditions and Codes of Practice could result in a failure to discharge our duty to assess the suitability of the premises for the provision of massage or special treatments. To ensure there are adequate

professional, technical or other staff available to administer massage or special treatments provided in establishments.

6.9 **Value for Money**

6.9.1 The annual licence fees form part of the overall budget for the Council. The fees are set at a level which covers the cost of administering the system without making a profit.

6.10 **Community Safety Implications**

6.10.1 Not applicable

6.11 **Environmental Impact**

6.11.1 None

7. **Background Papers**

The Essex Act 1987
Regulatory Services Enforcement Policy

8. **Appendices**

Appendix 1 – Massage or Special Treatment Premises Conditions
Appendix 2–Code of Practice 1 – Massage, Aromatherapy and Reflexology
Appendix 3 – Code of Practice 2 - LASER IPL ILS Conditions
Appendix 4 -Code of Practice 3 – UV Light Treatment
Appendix 5 – Code of Practice 4 – Sauna and Steam Rooms
Appendix 6 – Code of Practice 5 – Spa pools
Appendix 7 – Code of Practice 6 - Electric and Electric Vapour Treatment
Appendix 8 – Consultation responses
Appendix 9 – Brief overview of each type of licensed treatment provided