

# PROPOSED LICENSING SCHEME FOR OUTDOOR FITNESS INSTRUCTORS AND TENNIS COACHES IN PARKS AND OPEN SPACES

Cabinet Member(s)	Councillor Jonathan Bianco Councillor Richard Lewis Councillor Douglas Mills
Cabinet Portfolio(s)	Finance, Property and Business Services Central Services, Culture and Heritage Community, Commerce and Regeneration
Officer Contact(s)	Priscilla Simpson, Residents Services
Papers with report	<ol style="list-style-type: none"><li>1. Draft Terms and Conditions for Outdoor Fitness instructors and tennis coaches registration for use of parks and open spaces</li><li>2. Draft Code of Conduct for Outdoor Fitness instructors and tennis coaches licence holders</li></ol>

## HEADLINES

Summary	This report asks the Cabinet to consider progressing a proposal to introduce a new licensing scheme for the increasing number of outdoor fitness instructors and tennis coaches using Hillingdon's parks and open spaces on a commercial basis. This would protect the Borough's parks and green spaces; ensure that access to and use of public open spaces is preserved for all visitors; ensure that fitness operators hold appropriate qualifications that comply with industry best practice; and ensure that fitness operators are fully insured and hold liability for participants safety. This proposal would be subject to the statutory process and consultation required on any changes to the Public Space Protection Order.
Putting our Residents First	This report supports the following Council objectives of: <i>Our People; Our Natural Environment; Strong financial management.</i>
Financial Cost	There is no material expenditure or income arising from the proposal to introduce a licence system for outdoor fitness and tennis coach instructors.
Relevant Policy Overview Committee	Residents', Education and Environmental Services
Relevant Ward(s)	All

## RECOMMENDATIONS

That the Cabinet:

- 1) Note the proposal to introduce a licensing scheme for outdoor fitness instructors including tennis coaches using Hillingdon's parks and open spaces on a commercial basis, including the terms and conditions and code of conduct as set out in the report.
- 2) Authorise the Deputy Chief Executive and Corporate Director of Residents Services, in consultation with the Leader of the Council and Cabinet Members for Finance, Property & Business Services, Central Services, Culture & Heritage and Commerce, Community and Regeneration, to undertake the necessary statutory consultation required before changes can lawfully be made to existing Public Space Protection Orders and to then decide whether to give effect to the proposed changes, having conscientious regard to the consultation responses and also determining whether the statutory test required to make these changes is fully satisfied.
- 3) Subject to the outcome of the statutory process above, delegate authority to the Leader of the Council and Cabinet Members for Finance, Property & Business Services, Central Services, Culture & Heritage and Commerce, Community and Regeneration, in consultation with Deputy Chief Executive and Corporate Director of Residents Services, to approve the licensing scheme and make all necessary decisions to give effect to this proposal, including setting the associated fees and charges.

### Reasons for recommendation

To consider progressing a report to introduce a new licensing scheme for the increasing number of outdoor fitness instructors and tennis coaches using Hillingdon's parks and open spaces on a commercial basis. This will ensure parks and open spaces are protected, access to and use of public open spaces is preserved for all visitors, ensure that fitness operators hold appropriate qualifications that comply with industry best practice, are fully insured and hold liability for participants safety. Such schemes have been introduced in nearby local authorities, along with the Royal Parks. The proposals outlined in this report would be subject to the statutory consultation and process relating to Public Space Protection Orders (PSPOs) and subject to the outcome of this, delegated authority to Cabinet Members is recommended to give effect to the proposals and formally approve any licensing scheme.

### Alternative options considered / risk management

The existing controls could be left in place and not replaced by both a licensing scheme and an amended Public Space Protection Order. This is not recommended as the number of outdoor fitness instructors and tennis coaches has increased. Robust controls are required to manage these operators and to help protect our environment.

## Policy Overview Committee comments

None at this stage.

## SUPPORTING INFORMATION

1. This proposal to Cabinet aims to reduce the impact on parks and park users from the increase in fitness instructors that hold their regular, paid group exercise classes in local parks across the Borough. The Government's announcement in July has provided limited access to leisure centres and indoor exercise facilities. This has led to a noticeable increase in new requests from fitness and exercise instructors wanting access to Hillingdon's parks and green spaces for their sessions. Social media posts also show that there are likely to be more instructors than are known using local green spaces and parks for their weekly exercise sessions - these are being held without consent given by the Council.

Data from the four gated tennis parks sites shows that 60% of the known/registered tennis coaches use these courts for private coaching. This can prevent residents having access to already popular tennis courts. Added to this, a number of tennis coaches come from outside of the Borough as there is no fee to use Hillingdon tennis courts.

2. Resident complaints have also increased. Concerns have been raised regarding loud and vocal fitness instructors delivering their sessions from 6.30am on weekends or weekdays causing noise disturbance for local residents. Other concerns relate to fitness trainers blocking areas of parks such as athletic tracks where training equipment such as skipping ropes, jogging weights, resistance bands, kettle bells etc are left on the track for the duration of the sessions. This can cause access issues for other parks users such as joggers, walkers, and cyclists.
3. Concerns over financial gains being made by commercial fitness operators has led to a number of bodies, such as The Royal Parks and the London boroughs of Ealing, Richmond-upon-Thames and Brent legislating these activities via a permit system. The permits for fitness operators are on a sliding scale relating to participation. It would seem that many of these commercial operators have migrated to Hillingdon's parks from neighbouring boroughs to avoid licensing.
4. Outdoor Fitness Instructors and tennis coaches (using park tennis courts) would be expected to provide the following:
  - A copy of a site map showing proposed site/area of use for the fitness session;
  - A copy of emergency procedures relating to the proposed fitness session and an emergency plan including first aid cover;
  - A copy of a Risk Assessment that adheres to Government Guidance on being Covid-19 secure;
  - A copy of Child Protection Policy and DBS certification; details of all activities and procedures surrounding those activities where minors will be attending in the absence of their parents/guardians;

- Evidence of Register of Exercise Professionals (REPS) Level 3 fitness qualification where applicable;
  - Evidence to demonstrate compliance with insurance requirements;
  - Details of named individuals responsible for delivering the agreed activity sessions.
5. A suggested annual fee would be charged comparable to those charged by the London Borough of Ealing but it is also recommended to include a Hillingdon resident rate at 90% of that charged by our neighbouring borough as indicated in the table below. The Council could also charge a replacement fee of £20 (incl. VAT) for each subsequent replacement of the photo identification.

<b>Borough/Park</b>	<b>Single training session</b>	<b>Group Classes</b>	
		<£6 per class or 6 sessions per week	<£11 per class or 7 + sessions per week
Ealing	£50	£545	£1,090

<b>Hillingdon</b>			
<b>Non Resident</b>	<b>£50</b>	<b>£545</b>	<b>£1,090</b>
<b>Resident</b>	<b>£45</b>	<b>£490</b>	<b>£981</b>

6. It is proposed that an online application form will be designed to ensure any applicant conforms to the stated requirements. Once agreed, a license will be issued together with a photo identity card which is required at all times. This new initiative will be promoted in Hillingdon People and in all park notice boards.

7. The Anti-Social Behaviour Crime and Policing Act 2014 Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in particular areas that are detrimental to the local communities quality of life, by imposing conditions on the use of the area which apply to everyone. They are designed to ensure that law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

8. Subject to any PSPO being approved following statutory consultation, it would then be an offence for a person, without reasonable excuse, to do anything that the person is prohibited from doing by a Public Spaces Protection Order such as holding fitness or tennis coaching sessions without permission. The enforcing officer could decide that a fixed penalty notice (FPN) of a maximum of £100 would be the appropriate sanction. The FPN can be issued by an authorised Council officer in accordance with the Residents Services Enforcement Policy, or a police officer.

## Financial Implications

The introduction of a commercial outdoor fitness and tennis coaching licensing scheme will safeguard access to and use of public open space in the Borough for all visitors.

An annual fee for instructors who are non-residents of £545 for group sessions and £490 for instructors who are residents; £50 for a single session; a sliding scale for group fitness is proposed. There are no material costs associated with issuing the photo identity card and license as it will be absorbed by the current licensing team with a charge of £2-£5 per card.

License applications, including payment, are expected to be completed online, with the applicant providing the required documentation for checking. This would be managed by the Sport and Physical Activity Team at no extra cost.

Likewise, the Council's Environment Enforcement Team would enforce the scheme at no extra costs. Where an offence occurs, a fixed penalty notice of a maximum of £100 is proposed.

This scheme is not expected to generate significant levels of income as demand is currently projected to be less than 100 applications. Income received from this scheme would contribute towards the overall funds available for maintenance and refurbishment of the Council's parks and tennis courts.

There is a risk of increased demand in light of the current restrictions on social gatherings and indoor activities. This could result in the need to provide additional resources for administration and enforcement. The proposed fees would come into effect in 2021/22 subject to Cabinet approval and consultation outcome.

## RESIDENT BENEFIT & CONSULTATION

### **The benefit or impact upon Hillingdon residents, service users and communities?**

To improve the quality of life for residents and those using and living near our parks and open spaces. To know that outdoor fitness instructors and tennis coaches are adhering to a code of conduct that respects other parks users and residents, are professionally qualified and suitably insured to undertake their fitness sessions, and are not making commercial gain from free access to Hillingdon's parks and open spaces.

### **Consultation carried out or required**

Although no consultation has taken place to date, the Council is required to consult with certain individuals and bodies before it can amend a PSPO and implement this proposal.

## CORPORATE CONSIDERATIONS

### Corporate Finance

Corporate Finance has reviewed the report and concur with the Financial Implications set out above, noting that there are no financial implications arising from the report recommendations.

### Legal

#### The Council's Power to Licence Activity

Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 enables the Council to provide facilities for recreation and "to make available such facilities for use by such persons as it thinks fit either without charge or on payment of such charges as the authority thinks fit". This provision would therefore enable the Council to introduce a licensing scheme and to charge a licence fee.

#### PSPO

If the Council were to introduce a licensing scheme it must be able to enforce this via the PSPO. A further extension of the PSPO would require statutory consultation under the Anti Social Behaviour, Crime & Policing Act 2014 but the PSPO can only be used to address activities which have an adverse effect on the quality of life and where the PSPO is a proportionate means of stopping such behaviour.

## BACKGROUND PAPERS

NIL

## **DRAFT**

# **Hillingdon Council Code of Conduct for Outdoor Fitness Instructors and Outdoor Tennis Coaches**

### **The purpose of the code of conduct is:**

1. To avoid conflict between those undertaking licensed fitness activities in the parks, other park users and outdoor tennis facilities.
2. To protect the park and parks tennis sites.
3. To ensure access to and use of public open space is preserved for all visitors.
4. To provide the opportunity for visitors to benefit from, enjoy and engage in fitness training in a variety of outdoor environments.
5. To work alongside a licence agreement to ensure that fitness operators and tennis coaches are complying with current health and safety regulation and best industry practice for the safety and enjoyment of all participants.
6. To ensure that all Fitness Licensed operators and sports coaches are fully insured and hold liability for participant's safety. Hillingdon Council accepts no liability for any activity related to outdoor fitness training as part of the licence.

### **THE CODE:**

The Fitness, Sports Coach operator / licensee shall not have exclusive rights over any of the Authority's Premises and shall ensure that right of way is given to members of the general public visiting the Authority's Premises.

No large items of keeping fit equipment shall be used on the Authority's Premises other than hand held equipment e.g. jogging weights, kettlebells and resistance bands.

The Fitness, Sports Coach operator / licensee shall leave the Authority's Premises in a clean and tidy condition and be liable for any loss of or damage to any Authority's property through their direct improper use.

The Fitness, Sports Coach operator / licensee shall abide by Public Space Protection Orders.

The Licensee shall ensure that the Authority's Property is not used for the purpose of fitness training i.e. benches, tables, trees, lamp posts, bandstands, etc. To keep all pathways clear and accessible to all users.

The Fitness, Sports Coach operator / licensee shall not display, produce or distribute any sign or advertisement. The restriction of advertising applies to all boards, hoardings, flags, posters etc. displaying any organisation or company or brand name of any goods, including those of the Fitness, Sports Coach operator / licensee.

The Fitness, Sports Coach operator / licensee must ensure that no particular area of the Authority's Premises is overused to the extent that it causes unreasonable wear and tear to the fabric of the park e.g. waterlogged, obviously worn and muddy areas. A site map which names the site the Fitness, Sports Coach operator / licensee wishes to use and defines the boundaries of the proposed activities must be provided.

### **Park 'No Go' Zones:**

You are not permitted to use:

- Areas within the park where training activities have a negative impact on other park users, residents and Licensee's e.g. intrusive noise, aggressive language etc
- Areas of high pedestrian activity such as pathways, monuments and bandstands
- Areas clearly marked as sports fields, any formal garden areas and other park sensitive locations such as waterside areas, picnic areas, deck chair areas, long grass, meadow land, conservation areas etc.
- Areas closed for renovation or upgrading
- Any park structures, including trees, and furniture must not be used for training purposes

### **Park 'No Go Activities:**

The following activities are not be conducted by personal trainers/Group Licensee's:

- Amplified music or audio equipment, whistles and loud shouting or other intrusive noise-generating activities
- Aggressive, intimidating or unreasonably noisy training activities that interferes with the comfort of other visitors.
- Use of objects that mark out an area to imply exclusive use.

As a licence holder you agree to abide by these guidelines at all times. Non compliance to the above Code of Conduct and park regulations means you are at risk of losing your Fitness or Sports Coach license and being asked to leave the park with immediate effect.

## DRAFT

# **License to hold fitness training and tennis coaching in Parks and Open Spaces**

## **TERMS AND CONDITIONS**

### **Please Note:**

These terms and conditions apply to those wishing to use London Borough of Hillingdon Parks and Open Spaces for fitness training to include the provision of commercial services such as fitness training activities and tennis coaching in parks e.g. boot camps, group exercise or fitness classes

Please also refer to our associated ‘Application Form’ and ‘Fees and Charges’ documents.

### **Definitions**

In these terms and conditions, the following terms shall have the following meanings:

**“Application Form”** means the ‘Permit to hold fitness training in Parks and Open Spaces - Application Form’, to which these terms & conditions are attached.

**“Approval” and “Approved”** means the written acceptance by the Authority

**“Council”** means the London Borough of Hillingdon (abbreviated to LBH);

**“Fitness training or tennis coaching”** refers to the activity session(s) carried out by the Provider or the Licensee (as the case may be) as specified on the Application Form;

**“Licence”** means the approved application and these terms and conditions read together

**“License Period”** means the period running from the 1st April - 31st March inclusive in any year

**“Licensee”** means the individual or company to be registered as named on the Application Form;

**“Parks and Open Spaces”** means the parks, green spaces and open spaces named in the Application.

**“Permit Fee”** means the fee payable by the Licensee;

**“Registration Period”** means the period from which the agreed registration will begin and end during which the Licensee (and any Provider(s)) shall be bound to comply with these terms and conditions.

**“Park Events”** means the Council’s Events department within Parks and Open Spaces;

**"Provider"** means any individual(s) responsible for delivering the agreed activity session, or otherwise engaged by the Licensee in accordance with this Registration, to include any employee or agent of the Licensee.

**"Registration"** means registration by the Council as permitted to carry out the agreed activities in LBH Parks and Open Spaces during the Registration Period and

**"Registered"** shall be interpreted accordingly;

**'Site'** refers to the LBH Parks or Open Spaces, or designated areas within a Park or Green Space, as specified on the Application Form or otherwise agreed in writing between the Licensee and the Council.

## 1. REGISTRATION

1.1 Licensee must be Registered with the Council in order to carry out fitness training, tennis coaching in tennis parks or small-group activity sessions in LBH Parks and Open Spaces.

1.2 In order for the Council to consider an application for a permit, the Licensee must complete and submit an Application Form together with the following:

1.2.1 Where the Licensee is an individual:

- a) Copy of a site map clearly showing proposed site/area of use for the Fitness training or tennis coaching;
- b) Copy of the Licensee's emergency procedures relating to the proposed Fitness training, tennis coaching and an emergency plan which explains how an emergency would be dealt with. This must include, though is not restricted to, details regarding first aid cover, line of management, named person responsible for calling the emergency services, evacuation process, identified access and egress points for emergency vehicles and details of closest Hospital with A&E services;
- c) Copy of the Licensee's risk assessment relating to the proposed Fitness training, tennis coaching highlighting potential areas of risk for consideration to include, though not restricted to; unforeseen illness, slips, trips and falls, adverse weather conditions (heat/sun/cold/rain), antisocial behaviour, presence of glass/litter/dog mess, presence of pests/disease;
- d) Copy of the Licensee's Child Protection Policy and DBS Certification where applicable (please refer to current DBS guidance), for all activities specifically engaging minors under the age of 18;
- e) Details of all activities and procedures surrounding those activities, where minors will be attending in the absence of their parents/guardians;
- f) The name of the individual responsible for delivering the agreed activity session(s);

- g) Digital photograph of the named Provider;
- h) Evidence of REPS Level 3 fitness qualification where applicable;
- i) Evidence to demonstrate compliance with the insurance requirements as set out in clause 6 below.

**1.2.2 Where the Licensee is a Company it must supply:**

- a) All of the documents and information listed in clause 1.2.1 (a), (b), (c) (d) and (e) above;
- b) A list of all named individuals responsible for delivering the agreed activity session(s). Should the details change during the Registration Period, the Licensee must update Park Events accordingly within one week of such change;
- c) Digital company logo;
- d) Confirmation that all providers will hold a REPS Level 3 fitness qualifications where applicable;
- e) Evidence to demonstrate compliance with the insurance requirements as set out in clause 6 below. All Providers to be covered by such insurance

**1.3** The completed Application Form together with the documents and information listed in clause 1.2 must be submitted in accordance with the timescales below:

Type of Registration	Timescale
Repeat applications/renewals with no changes to the current provision or activities;	No later than 28 days prior to the proposed Registration Period commencement date.
New applications or where there are alterations to pre-existing or on-going arrangements (such as changes to days, attendance etc).	At least 10 weeks prior to the proposed Registration Period commencement date

**1.4** The Council shall be under no obligation to accept an application from a Licensee to be registered.

**1.5** Upon Registration the Council will provide the Licensee with a registration number which the Licensee or its Provider(s) must hold at all times whilst carrying out Fitness training or tennis coaching and produce upon request by any officer or agent of the Council. It is the Registrant's responsibility to ensure that its Providers hold the

registration number issued at all times whilst carrying out Fitness training or tennis coaching sessions under this Agreement.

1.6 Following Registration, the Licensee or its Providers may carry out Fitness training or tennis coaching sessions as per the specifics detailed on the Application Form. Any variations to which (such as changes to the specified Site or times/dates of activity sessions) must be agreed in writing between the Licensee and the Sport and Physical Activity Team.

1.7 The Licensee acknowledges that:

- a) Registration does not guarantee that the Site will be open or that there will be space to carry out Fitness training or tennis coaching sessions;
- b) Registration does not grant the Licensee priority over any other lawful user of the Site and;
- c) Any sports pitch bookings or events hires will take priority over Fitness training sessions, and the Licensee or its Provider(s) shall postpone their activities or relocate within the defined Site, if a conflict of interest occurs.

## **2. LICENSEE OBLIGATIONS**

2.1 The Licensee shall, and shall ensure that its Provider(s), employees or agents shall, at all times exercise the rights and duties under this Agreement in a proper and responsible way, and ensure that Fitness training or tennis coaching session(s) proceed smoothly and safely, and do not interfere with other users of the Site, neighbours or local traffic.

2.2 The Licensee shall, and shall ensure that its Provider(s), observe and perform all reasonable requirements of the Council relating to this Agreement.

2.3 The Licensee shall comply with the PSPO's.

2.4 The Licensee shall utilise the Site in such a way as to allow for easy access and evacuation in the event of an emergency.

2.5 The Licensee must confirm to the Council, and supply evidence upon request, that all Provider(s) are properly qualified to carry out the proposed activities.

2.6 The Licensee will report any incidents, accidents or health and safety issues to the Sport and Physical Activity Team as soon as is reasonably practicable and will complete the relevant accident/incident forms as required.

2.7 The Licensee shall not take to, store at or set up any infrastructure or furniture (including but not limited to tables and gazebos) at the Site without the prior written consent of the Council.

2.8 The Licensee shall not affix or install any equipment at the Site. Any equipment used must be removed after each activity session. The Licensee shall ensure that their activity, or equipment used, shall not cause damage to the ground, buildings, fences, furniture, plants or wildlife on the Site. If damage occurs, the Registrant will be liable to the Council for the full cost of any repairs or reinstatement works.

2.9 The Licensee must not light fire on the Site, without the prior written consent of the Council

2.10 The Licensee shall adhere to Wildlife and Countryside legislation including The Wildlife and Countryside Act 1981 and The Countryside and Rights of Way Act 2000 (CROW Act 2000).

2.11 The Licensee is not permitted to bring vehicles onto the Site, without the prior written consent of the Council.

2.12 The Licensee must remove any equipment and rubbish and leave the Site in the same condition as it was found, at the end of each Fitness training or tennis coaching session(s). Failure to comply could result in the Licensee being charged for the cost of any required reinstatements works and cleaning services in order to return the Site to its original condition.

2.13 The Licensee must not use any designated sports pitches unless these have been hired through the Council's Sport and Physical Activity team.

2.14 The Licensee is not permitted to advertise its Fitness training or tennis coaching by way of posters or flyers in the Parks and Open Spaces, Park and Green Spaces' notice boards, fencing, railings or trees unless specific written permission has been granted by the Council in this respect.

2.15 The Licensee shall not 'fly post' (i.e. display posters or banners on any lamp-post, street railings, shop windows, etc or anything else which the Council deems to be 'fly posting').

2.16 The Licensee will adhere to the Byelaws relating to Open Spaces in LBH at all times, unless otherwise authorised by the Council in writing.

### **3. LICENSING AND ENVIRONMENTAL HEALTH**

3.1 A licence is necessary for some forms of public entertainment. The Licensee must not sell alcoholic drinks or carry out any other licensable activities unless authorised by the Council to do so. Where a licence is granted to the Licensee to carry out any activity for which a licence is required in relation to the proposed Fitness training or tennis coaching session(s), the Licensee must supply a copy to the Council not less than 28 days prior to the Registration Period commencement date.

3.2 The Licensee is not permitted to play music without the prior written consent of Sport and Physical Activity team. Where the proposed activities involve public performances and/or broadcast of musical works, the Licensee will be responsible for applying for Performing Right Society (PRS) [www.prs.co.uk](http://www.prs.co.uk) and/or Phonographic Performance License (PPL) <http://www.ppluk.com> licences as required.

3.3 The Licensee is not permitted to bring any traders or concessions onto the Site without the prior written consent of Sport and Physical Activity team.

3.4 The Licensee is not permitted to bring animals onto the Site, unless specific written permission has been granted by the Council in this respect.

### **4. ASSESSMENT AND MONITORING**

4.1 The Council at their discretion, may carry out assessments of the agreed site, or of the Licensee and/or its Providers' ability to provide the agreed activity, throughout the Registration Period.

4.2 The Licensee may be required to present to the Council details of attendance figures and an analysis of users' profiles i.e. Gender, Age, Disability, Ethnic Origin, Post-code.

4.3 The Licensee is required to keep a record of any complaints made to him/her concerning or in connection with any Fitness training or tennis coaching session(s) under this Agreement and must immediately notify Sport and Physical Activity team of any such complaint and keep the record of complaints available for inspection.

### **5. PERMIT FEE AND PAYMENT**

5.1 The Permit Fee payable by the Licensee shall be in line with the 'Permit to hold fitness training and tennis coaching activities in Parks and Open Spaces - Fees and Charges Document'

5.2 Fees and Charges will be reviewed at the beginning of each financial year.

5.3 Once the Licensee's application has been approved, the Licensee will receive written confirmation of the Permit Fee and payment plan.

## 6. INSURANCE AND LIABILITY

6.1 The Licensee shall, throughout the Registration Period maintain public liability insurance of not less than five million pounds (£5,000,000). Failure to do so will result in cancellation of this Agreement.

6.2 The Licensee shall be liable for and indemnify and keep indemnified the Council against all liabilities, damages, costs, losses, claims, demands or proceedings whatsoever, whether in tort or contract or otherwise arising from or in connection with this Agreement, or caused by a breach by the Licensee or its Provider(s), its employees and agents of the terms and conditions of this Agreement.

6.3 The Council accepts no liability to the Licensee, Provider or to any third party for any costs, claims, damages or losses other than for personal injury or death caused by the Council's negligence.

## 7. TERMINATION AND CANCELLATION

7.1 The Council may revoke the Licensee's Registration and terminate this Agreement with immediate effect where the Licensee and/or its Provider(s):

- a) is in breach of its obligations under this Agreement and, where the breach is capable of remedy, fails to remedy such breach within 7 calendar days of receipt of written notice to remedy the breach;
- b) becomes incapable for any reason of efficiently performing as a competent and qualified Licensee and/or Provider;
- c) acts in any way that is likely to bring the Council into disrepute or damage its reputation or interests.

7.2 The Council may terminate this Agreement for convenience by giving 7 calendar days written notice.

7.3 The Council terminates this Agreement under clause 7.1 the Licensee shall not be entitled to receive any refund of the Permit Fee.

7.4 Where the Council terminates this Agreement under clause 7.2, the Council shall reimburse the Permit Fee on a pro-rata basis for the remaining duration of the Registration Period.

7.5 Should the Licensee wish to cancel the Agreement, 28 days' written notice must be provided to Council. The Licensee will not be entitled to refund of any portion of the Permit Fees paid.

7.6 For the avoidance of doubt, following termination of this Agreement by either party, the Licensee, and its Providers' Registration will lapse.

## **8. GENERAL PROVISIONS**

8.1 This Agreement contains the entire understanding and agreement between the parties and supersedes all prior representations, documents, negotiations or understandings. The Licensee acknowledges that it has not entered into this Agreement in reliance upon any representation by the Council or anyone acting on its behalf.

8.2 Pursuant to the Freedom of Information Act 2000 the Council is subject to certain legal obligations in relation to public disclosure of information. The Licensee shall cooperate with and assist the Council with any requests for disclosure which the Council receives under the Freedom of Information Act 2000 which relate to this Agreement.

8.3 Nothing in this Agreement shall be taken to confer any benefit on any person who is not a party to it and the parties hereby agree that the Contracts (Rights of Third Parties) Act 1999 does not apply hereto.

8.4 Nothing in these terms and conditions shall fetter the Council in the exercise or discharge of its functions, powers and duties as a local authority (including, without limitation, the power to close all or part of any Park or Open Space either on a permanent or temporary basis).

8.5 Nothing in this Agreement shall create any tenancy in favour of the Licensee.

8.6 In the event that any dispute arises between the parties in connection with this Agreement, the parties shall, in the first instance, use their reasonable endeavours to resolve it amicably between themselves. Disputes remaining unresolved following such endeavours shall, if the parties agree be referred to non-binding mediation. In the event that the parties do not agree to non-binding mediation or if the dispute remains unresolved, the dispute shall be referred to the exclusive jurisdiction of the Courts of England.

8.7 This Agreement shall be governed by and construed in accordance with English Law and the Council and the Licensee hereby submit to the exclusive jurisdiction of the English Courts.