

APPROVAL OF A NEW LICENSING SCHEME FOR OUTDOOR FITNESS INSTRUCTORS AND TENNIS COACHES IN PARKS AND OPEN SPACES

| | |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cabinet Member(s) | Councillor Eddie Lavery Councillor Susan O'Brien |
| Cabinet Portfolio(s) | Environment, Housing and Regeneration Families, Education and Wellbeing |
| Officer Contact(s) | Priscilla Simpson, Planning, Environment, Education & Community Services |
| Papers with report | Appendix 1 - Draft Code of Conduct for Outdoor Fitness Operators for use of parks and open spaces Appendix 2 - Draft Terms and Conditions for Outdoor Fitness Operators for use of parks and open spaces Appendix 3 – Outdoor Operator Consultation Responses in full Appendix 4 – Consultation on Public Space Protection Order Variation |

HEADLINES

| | |
|-------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Summary | This report asks Cabinet to approve a new licensing scheme for increasing number of outdoor fitness instructors and tennis coaches using Hillingdon's parks and open spaces on a commercial basis. This follows Cabinet's decision back in October 2020 to consult on a scheme. 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 hold sufficient public liability insurance. This proposal is based on the results from 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</i> ; <i>Our Natural Environment</i> ; <i>Strong Financial Management</i> . |
| Financial Cost | There is no material expenditure or income arising from the proposal for 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. Agree the licensing scheme for outdoor fitness operators 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. Agree the fees set out for the licensing scheme in this report;**
- 3. Note the outcome of the statutory consultation on the Public Space Protection Order (PSPO) that proposed outdoor fitness operators and tennis coaches using Hillingdon's parks and open spaces on a commercial basis produce a licence issued by Hillingdon Council; and**
- 4. Subject to the licensing scheme being approved by Cabinet, authorise the Corporate Director of Planning, Environment, Education and Community Services to make the requisite Public Space Protection Order change set out, so both come into effect simultaneously.**

Reasons for recommendation

To approve 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 along with associated fees. Cabinet will need to be satisfied that the statutory consultation process relating to Public Space Protection Orders (PSPOs) has been properly undertaken, and they should fully consider the consultation responses submitted before they authorise the Corporate Director of Planning, Environment, Education and Community Services takes steps to vary the PSPO in accordance with the final recommendation in the report.

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.

An alternative option would be to limit the licensing scheme and PSPO to those locations in the Borough that are most affected by instructors carrying out their business in the Council's parks and open spaces. This approach is not recommended because treating areas of the Borough differently could give rise to indirect discrimination.

Policy Overview Committee comments

None at this stage.

SUPPORTING INFORMATION

1. This proposal to Cabinet is to agree the licensing scheme which aims to reduce the impact on parks and park users from the increase in fitness instructors and tennis coaches that hold their regular, paid group exercise classes in local parks across the Borough. 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, are a number of tennis coaches who come from outside of the Borough.

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. In agreeing to licence these operators, officers would expect outdoor operators 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. The fee suggested to be charged is comparable to that charged by the London Borough of Ealing and it is not proposed to implement a discount for residents. The Council will also charge a replacement fee of £20 (incl. VAT) for each subsequent replacement of the photo identification.

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

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, 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 Council enforcement policies, or a police officer.

Consultations and feedback

Results from National Governing Body and Outdoor Operators Consultation

To establish views on the proposed licence scheme, a consultation exercise was carried out involving EMD UK, industry expert and the National Governing Body for Group Exercise, and local outdoor operators currently using or would like to use Hillingdon's parks and green spaces for their physical activity group sessions.

- The consultation period ran from 11 November 2020 to 25 November 2020.
- All the outdoor operator consultation responses can be found in full in Appendix 3.
- These responses have been acknowledged and officers thank those who have responded.
- A summary of the responses and clarification of the points raised, are as follows:

EMD UK (National Governing Body for Group Exercise) response

Question 1

This scheme will introduce more robust controls to ensure that fitness operators hold appropriate qualifications that comply with industry best practice, are fully insured and hold liability for participant's safety, as well as ensure that parks and open spaces are protected and access to and use of public open spaces is preserved for all visitors. Do you support this?

EMD UK Response: We would fully support this. As the NGB for group exercise, the industry best practice is us and we would expect providers to adhere to standards as set by EMD UK

Question 2

Outdoor Fitness Instructors and tennis coaches will be expected to adhere to new Terms and Conditions, a signed Code of Conduct, and an annual fee structure as part of this licence scheme. Do you support this?

EMD UK Response: We would also expect them to submit risk assessments for all activities

Question 3

An annual fee will include a Hillingdon resident rate at 90% of that charged by our neighbouring borough. Do you support this?

EMD UK Response: We would ask that the licence fee is at a reasonable rate so that it is cost-effective for instructors to deliver classes, perhaps also consider how this can be paid for in relation to instalments as most instructors are self employed

Outdoor operator responses:

These are set out in full in Appendix 3 but in summary:

1. As an outdoor fitness operator using Hillingdon council's parks and open spaces, do you agree to the introduction of a licence scheme?

92% of respondents agreed to the introduction of a license scheme and acknowledged the need to have a formal arrangement between the council and operator, which would also ensure that all outdoor operators had appropriate insurances and policies in place

2. As an outdoor fitness operator do you agree to the Hillingdon Council annual fees and charges structure for a single training session and group classes?

33% of respondents agreed with the fee structure as long as the situation was monitored across all outdoor operators.

Clarification on the points raised:

- 1) Annual fees would be charged comparable to those by the London Borough of Ealing and a recommendation to include a Hillingdon resident rate at 90% of that charged by our neighbouring borough.
- 2) Robust checks of all operators will be made through registration processes and self-policing.

3. Please give your comments to the proposed Outdoor Fitness Operator and Parks Tennis Coaches [Terms and Conditions](#) and [Code of Conduct](#)

100% of the respondents agreed with the proposed Terms and Conditions and Code of Conduct

4. There will be an online registration process for outdoor fitness operators to complete. Once completed and checked by Hillingdon Council a photo ID badge will be issued to the recipient. The photo ID badge will need to worn or be visible by the operator during fitness sessions in parks and green spaces.

Do you agree with this registration process?

92% of the respondents agreed with the registration process. A number of respondents wanted clarification on the process to monitor and check all operators using the parks.

Clarification on the point raised:

- 1) Measures such as self-policing, robust checks of qualifications and relevant policies, issuing of ID badges, and promotion of approved outdoor operators on the Council webpages will be applied and regularly monitored

5. All outdoor fitness operators that are successfully registered with Hillingdon Council will have their sessions promoted through the council website.

Do you agree with the promotion of registered instructors on the Council website?

83% of respondents agreed to have the support of the Council in promoting their group sessions.

Statutory Consultation on the Public Space Protection Order responses

The consultation period ran from 2 April 2021 to 30 April 2021.

Five responses were received (via email), and raised the following for consideration:

1) *'I would like to oppose the use of open spaces for commercial gain without Council approval. We need to be sure these businesses are:*

- Regulated*
- Covid compliant*
- Paying for wear and tear on any leased ground such as Kings College Playing Fields for Ruislip Rangers football club, Eastcote hockey club etc*

I often see private football coaches using our parks (and also Kings College Playing Fields and the goal facilities) which causes extra wear and tear to the pitches, which I believe the clubs have to pay for themselves. This is unfair.

I completely agree with people wanting to start and run their business, but it needs to be safe and done properly.

It may be too late to add in, but I think it would be great to add in 1:1 or group commercial sports like football or other activities.'

2) *'I'm sure they don't give their training for free. Do they have insurance in case of a client getting an injury. I see them in Shenley Park at 7 a.m.*

Have seen groups of up to 30 people doing fitness classes in the evening also in Shenley Park. You can hear them shouting out and sometimes they have music blasting out.

They can probably make a fair bit of money with a large group.

I don't think this should be allowed, parks are for people to enjoy in peace if they want.'

3) *'I don't see what the problem is with instructors using open spaces. These people need to reopen their businesses and start making some money, are they really causing people a problem. There is plenty of room in a park for instructors and students to socially distance and there would still be enough room for other people to use the parks. The instructors are residence of the Borough and so are the students why can't they use the facilities. The people complaining probably don't want to use the space anyway it's just another thing to have a say about. I'm all for the space being used constructively by these people until such a time as they can get back inside to carry out their training. Also the people they are teaching may need the contact for their mental well being as well as physical fitness, shouldn't we be looking after our fellow residents at this tricky time.*

I think it's ridiculous anyway that gyms can open with people sharing equipment (even if its wiped down between uses) but people that teach martial arts or aerobics to adults are not allowed to open.

Let's just leave them until such time, hopefully soon that they can return to their venues.'

4) *'I would like to comment on this that I am not in favour of adding a clause to prevent fitness instructors using parks. The parks are there for us to freely enjoy, and that includes for exercise (Which the government is trying to encourage to keep the nation fit) so why restrict the ways we can do this? I have noticed a few fitness instructors around but I don't find it any more*



obstructive than someone exercising by themselves/with friends. It makes a nice change from only seeing dog walkers.

I don't know about the tennis courts, that sounds like a different issue. If they are drop in, and anyone can use them, then anyone can use them. If they need booking then if the client is eligible to book why does it matter that they have a coach with them? Naturally some people will use tennis courts far more than other people who don't like tennis.'

5) 'I agree that the instructors who use Hillingdon's parks and open spaces should pay for a licence and should pay this towards maintaining the park. I noticed the number of instructors increased in the past couple of years. They for example use the area near the running track in King's College Road, every day there are a few instructors running their classes there. The grass gets destroyed by the people in the class in the spring and summer, I think there should be some charge for using this area for such commercial activity. They often take quite a lot of space, effectively blocking the running track so the others cannot use it. I think this is an approach a lot of councils in London have taken.'

The email responses above has been acknowledged and officers have thanked all those who have responded. Clarification to the points raised are as follows:

1) The draft license conditions 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.

2) The consultation period was for 28 days and both the forward plan and the minutes of the Cabinet Report were published.

As no consultation feedback had been received by 19 April 2021, a further 'push' through the Council social media platforms was made on 22 April and 29 April 2021 stating the following:

"Fitness instructors and tennis coaches are increasingly using public parks and open spaces for private lessons without consent. Theses spaces are for our residents and we want to protect them, which is why we're launching a consultation. Have your say bit.ly/3tFYmGo"

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.

It is proposed to introduce an annual fee for instructors of £545 for group sessions, rising to £1,090 where there are 7 or more sessions per week. There will be a separate £50 fee for a single session. No additional staff are required in the licensing team to administer the scheme.

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 income levels at this stage however monitoring of income this year will provide guidance for future years. Income received this year from this scheme will contribute towards the maintenance and refurbishment of the Council's parks and tennis courts.

There is a risk of increased demand considering 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.

RESIDENT BENEFIT & CONSULTATION

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

These recommendations will improve the quality of life for residents and those using and living near our parks and open spaces. Residents will 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

Broad consultation has taken place to consult with certain individuals and bodies as set out in this report, so it can amend the PSPO and implement the proposed scheme.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed the report and concur with the Financial Implications set out above, noting that the income from licences and penalty fees will be reviewed, as part of budget monitoring.

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 enables the Council to introduce a licensing scheme for Outdoor Fitness Instructors and Tennis Coaches and to charge a licence fee.

PSPO

Section 59 of the Anti-Social Behaviour, Crime & Policing Act 2014 authorises the Council to make or amend a PSPO where it is satisfied that activities have taken place which have had a detrimental effect on the quality of life" and that without these activities being prohibited by a PSPO the activities

are likely to continue. The Council must also be satisfied that the making of a PSPO is justified and proportionate.

As explained in the report, in addition to a statutory consultation under section 72 of the Act an informal consultation was carried out with industry representatives. These responses are set out in the appendices and Cabinet members must take these into account in deciding if the carrying out of unlicensed business activities in parks is likely to affect the quality of life in Hillingdon and whether it is proportionate to restrict this activity by a PSPO.

With regard to proportionality, the Borough Solicitor advises that the most effective means of ensuring that only licensed businesses carry out activities in its parks and open spaces is by amending the PSPO as set out in the report to enable the Council to serve fixed penalty notices or bring prosecutions for any breaches. The only other means by which the Council could restrict unlicensed activities would be to apply for civil injunctions against individual operators on a case by case basis. This would involve a lengthy process and be far more expensive than enforcing a PSPO.

Further, section 72 of the Act requires the Council to consider “in particular the rights of freedom of expression and freedom of assembly” before amending a PSPO. The Borough Solicitor confirms that the proposed licensing scheme and PSPO do not affect these rights.

If the Council decides to amend the scope of the PSPO the Anti-Social Behaviour (Publication of Public Spaces Protection Orders) Regulations 2014 require the Council to publish the amended order on its website and for the amended PSPO to be displayed on the locations specified in the PSPO.

BACKGROUND PAPERS

[Cabinet report – 22 October 2020](#)

APPENDIX 1

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 to 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.

APPENDIX 2

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 fires 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 reinstatement 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 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.

APPENDIX 3

Outdoor Operators Consultation Responses

12 responses received

1. As an outdoor fitness operator using Hillingdon council's parks and open spaces, do you agree to the introduction of a licence scheme?

Agree: 11

Disagree: 1

Comments:

- I think it is important to regulate who are using the parks and make sure all trainers are qualified and insured.
- I'm offering a service to people mainly with disabilities (but others who may be interested too). My aim is to promote positive mental wellbeing and flexibility and movement for those who suffer with mental health, cerebral palsy and other movement issues. I'm offering them a service outdoors as they may not be able to travel to a gym in their area. Open space and parks would be their ONLY opportunity to access these places with the use of my service my service without care staff who are not fully trained/qualified to help promote this area in their lives. I do not charge the people much myself as I understand their allowances may not allow them to access my service. If I were to have to pay to use the open space which is promoted by central government (especially during lockdown), then there would be no point trying to re-instate this service again. A service that the guys I helped loved.
- It makes sense to have a formal arrangement.
- To make sure the students are getting the best coaching.
- Important to ensure all providers have appropriate safe for practice policies in place.
- I am a qualified, insured Tai Chi instructor, and normally teach a weekly class. I get paid for those classes and the students are offered the class as part of their pre-paid membership.
- I think there are fitness instructors using the parks who may not have the correct insurance a qualifications.
- I haven't operated in council parks because I could not get a license. A bit late to the show guys, this would have been great back in the summer.

2. As an outdoor fitness operator do you agree to the following Hillingdon Council annual fees and charges structure for a single training session and group classes?

There is a discount for fitness operators who are Hillingdon residents.

Please Note that fees and charges do not apply to 1-to-1 or personal training sessions

| | Single group training activity session | Group Classes | |
|--------------|----------------------------------------|--------------------------------------|-----------------------------------------|
| | | <£6 per class or 6 sessions per week | <£11 per class or 7 + sessions per week |
| Non Resident | £50 | £545 | £1090 |
| Resident | £45 | £490 | £981 |

Agree: 4

Disagree: 8

Comments

- I agree with charging and having a structure depending on the amount of classes however I feel the difference between charging £6 and £11 is too great. I teach 3 classes a week charging £6 per class - This structure means I won't be able to increase my prices without doubling my licence fee.
- I would only be running 1 to 1 sessions or personal training sessions, so this charge would not apply to me if it were to go ahead? If I were to run a class it would be once a week so £6 per class would depend if there was a time limit on it.
- Yes, I agree as long as the situation was monitored and instructors not complying were checked and stopped as I feel a lot of people that set up will not get the proper permissions.
- How will this be policed to ensure there is transparency for all?
- I feel that £45 for one session is a bit high. When I run classes the maximum I would pay for a hall is £30 and the average is £25. I prefer that people book directly with me and pay me and I hire the space. I usually charge £7/£8 per session but average yoga charges in this area are £10 per session.
- The courts haven't got any toilet provisions, they are not cleaned especially in autumn, the nets are maintained and they are no flood lights for the winter months.
- I'm happy to pay for the use of the facility, however if there are multiple providers I may not be able to get a court and essentially would be paying for nothing.
- I do not get paid for the outdoor sessions in the park. I have got to know the students over the past 11 years, we are all friends, so the sessions are held on an informal basis. We meet when the weather allows, and the numbers range from 5 to 15 people. I do not charge for these sessions, so I do not think it is fair to charge me. I do not fully understand the fees, and would appreciate a clarification. What does "group classes £6 per class or 6 sessions per



week mean? We only meet once a week. So does that mean I get charged £6 per class? as well as £490?

- This is a lot of money for myself. I would have to bring the amount of classes down to 6 from 8. Its a big jump up to £981.
- Maybe simplify it slightly, 0-3 classes per week, 4-6 classes per week and 7+ = £X per year. Not sure why the per class fee matters to the council?
- Some clarity would need to be given as to what is charged for what, is it annual or per session, as what is outlined is unclear
- The fee structure would depend on the sport or activity in question, each site would have pros and cons so bespoke pricing may need to be used . Factors such as the level of coaching (coaches qualifications) the facilities for the public and the operator - ie, is there a toilet, water fountain etc for the operators to use

3. Please give your comments to the proposed Outdoor Fitness Operator and Parks Tennis Coaches [Terms and Conditions](#) and [Code of Conduct](#)

Agree: 12

Disagree: 0

Comments

- It states that pathways are not to be used. I assume that means to do exercises on not to travel from one area to another?
- I agree to the T's & C's of the council.
- All is fair and clear. My only thing would be not allowed to play music. I would do this in a reasonable manor as background noise, rather than a "rave"! I have the required PPLS
- I agree with the conditions in the attachment
- I will agree if toilets and flood lights and cleaning of the courts are added to the T&C
- Have you thought about adding some benefits to the scheme i.e. providers have access to 2 tennis courts at all times to book, or a priority booking window
- In general, I agree, but I just want to explain our situation. These Tai Chi sessions are purely social gatherings, where we practise together. They started because of the pandemic when the gyms shut. Many of the group who come are afraid of going back to the gym because quite a few have underlying health conditions.
- Read
- All looks straight forward
- All seems standard practice terms and conditions
- See above - Sites like Hillingdon court park would need a toilet - perhaps use of the toilet at the bowls club - or new toilet being built with entrance (using the old visitors changing room at the bowls club (tennis court side) without a toilet and hand washing / drinking water facility it is hard to run a sustainable programme as coaches could not operate there for more than 2 hours in a row. Toilets are also essential for young children.

- 4. There will be an online registration process for outdoor fitness operators to complete. Once completed and checked by Hillingdon Council a photo ID badge will be issued to the recipient. The photo ID badge will need to worn or be visible by the operator during fitness sessions in parks and green spaces.**

Do you agree with this registration process?

Agree: 11

Disagree: 1

Comments

- I would like to know how the council intend to make sure all providers using the parks are registered?
- It would be good to be able to be identified by the ID for others observing and the client staff who are working in the park to be aware of who you are.
- How will this be monitored? Will an employee of Hillingdon council go round at 7pm when most bootcamps set up?
- I feel an outdoor fitness class space would be a real benefit. A hardstanding (rubberised) surface with a cover for all weathers. I have a design thought out. The sort of space for yoga classes, keep fit, boot camps etc. Also, other activities such as choirs, children's activities etc. I would definitely use such a space twice a week throughout the year - maybe more in summer. I have been running my meditation sessions in Cowley Rec. and the members have really felt the benefit.
- What is the difference between you and the LTA as I am already registered with them?
- Can multiple ID badges be used per organisation? i.e can I register with the council and one of my colleagues run the session that I organise?
- Like other forms of ID I think it unnecessary to have them on show. Was long as it can be produced when asked for by a council official that should be ok. I will have difficulty have an ID round my neck when I am conducting a fitness class.
- Hillingdon could be a hub for tennis and tennis related activities if there is some small investment in basic health and safety requirements (as mentioned above - toilets, hand washing facility , bad weather shelter)

- 5. All outdoor fitness operators that are successfully registered with Hillingdon Council will have their sessions promoted through the council website.**

Do you agree with the promotion of registered instructors on the Council website.

Agree: 10

Disagree: 2

Comments

- I think this would be great to advertise on the Council website. It would also be nice if the licensees were allowed to advertise using 1 banner at the park they work in.

- Any help with advertisement is always welcomed by anybody trying to promote their service. If the charges were going towards this then it would make it better. At least you would be paying for a service for you as the operator.
- Yes, I agree.
- I would happily be involved in any consultations or plans for these schemes.
- I will be flooded with request and I am not willing to pay £981 a year to use courts that don't have a public toilet.
- I do not agree with this, as I do not wish the sessions to be advertised. I am running the sessions purely on a social basis, because of the pandemic when the gym shut. Many in the group were fearful of going back to the gym because of underlying health conditions. I have a question: are we allowed to continue to meet when the Government guidelines permit? And what happens if we don't apply for a permit because of the cost?
- Thanks
- Pro rata on permits would be good but I am sure that would be put in place. Also Summer permits as Winter months are unpredictable and people are more unreliable in the Winter.
- Offers promotions and trials could be incentivised for local community - with exit pathways to local clubs

Social Media feedback

Feedback was also received from social media via Facebook:

Shared this to late for our views [#londonboroughofhillington](#) forgot to ask the residents. Kids frequently playing tennis after school and weekends. Now we have to book a session council is getting. Ridiculous what next book a session to go on the swing or for a walk how bout ask the resident's first before going ahead and doing as you please because someone on your committee has decided this might be a good option. The close park has now got a booking session.

I have no objection, fitness classes use a great deal less area per person than a ball game pitch. Also, we're blessed with vast amounts of green land, so seeing it being used by residents in fitness classes is welcome. I know of classes that position themselves away from the more trodden areas and are thus sympathetic to others.

APPENDIX 4

Public Spaces Protection Order Consultation

This consultation period from 2 April 2021 to 30 April 2021

Introduction

We are consulting on a variation to the (Parks and Public Places) Public Spaces Protection Order ("the Order") 2020 for the increasing number of outdoor fitness instructors and tennis coaches using Hillingdon's parks and open spaces on a commercial basis.

There has been a significant increase in fitness instructors using local green spaces without council consent. These include tennis coaches who have been using council courts for private coaching; some of these coaches come from outside the borough.

Please see the additional condition at A (xix).

Conditions in the Order which are prohibitions:

- A.** In the restricted areas a person commits an offence if without reasonable excuse they carry out activities from which they are prohibited namely
- i. Drinking alcohol (other than in premises licensed for the sale of alcohol or at a venue where a Temporary Event Notice is in place) after having been required to stop by an authorised person**
 - ii. Being under the influence of controlled drugs and/or other psychoactive substance**
 - iii. Spitting saliva or a product from the mouth onto the ground or street furniture**
 - iv. The placing of any type of food source in a street to either feed or attract birds or vermin**
 - v. Using powered vehicles (other than on a highway or road) such as motorcycles without the express consent of the Council**
 - vi. No person or organisation shall, except with the written permission of Hillingdon Council, use parking spaces within a designated public spaces car park for the purpose of instructing learner drivers in any manoeuvres**
 - vii. Using remote controlled model vehicles and aircraft that is likely to cause nuisance from noise or cause harassment, alarm or distress to another person, without the express consent of the Council**
 - viii. Using drones and small unmanned aircraft (SUA) of any mass without the express consent of the Council (condition to apply to the parks and open spaces set out in Annex 1 to this order)**
 - ix. To encamp (with or without a vehicle) without the express consent of the Council**
 - x. Lighting or being in control or responsible for an activity involving a fire, barbecue or fireworks without the express consent of the Council**

Anti-Social Behaviour & Environment Team
Residents Services
asbinvestigations@hillington.gov.uk
www.hillingdon.gov.uk
London Borough of Hillingdon, Civic Centre, High Street Uxbridge, UB8 1UW

- xi. **Having more than four dogs in a person's sole charge, for non commercial purposes. Having more than six dogs in a person's sole charge for commercial purposes without a licence**
- xii. **Leaving the engine of a stationary or parked vehicle running.**
- xiii. **Being verbally abusive to any person or using foul language or behaving in a way which causes or is likely to cause harassment, alarm or distress to another person**
- xiv. **Being engaged in the collection or soliciting of money by way of requesting personal information that causes harassment, alarm or distress to another person**
- xv. **Being engaged in the act of begging for food or money that causes harassment, alarm or distress to another person.**
- xvi. **Urinating or defecating in a public space except in a premise designed for the purpose**
- xvii. **Use any device designed or adapted for detecting or locating any metal or mineral on or in the ground without the express consent of the Council**
- xviii. **Engage in any type of fishing or dredge or remove any material from any park or open space without the express consent of the Council**
- xix. **Engage in the instruction of outdoor fitness classes, including one to one Tennis coaching, using Hillingdon's parks and open spaces on a commercial basis without the appropriate operating licence issued by Hillingdon Council**

Conditions in the Order which are requirements:

- B.** In the restricted areas a person commits an offence if without reasonable excuse they fail to comply with any activity that they are required to undertake namely;
- i. **Hand over immediately any alcohol, whether in an open or closed container, when required to do so by an authorised person who believes that the person has consumed, is consuming or intends to consume alcohol in breach of the prohibition at (a)i above**
 - ii. **Leave a park at the designated closing time or when required to do so by an authorised officer, if appropriate extinguish a fire and/or barbecue or firework, removing all waste and/or associated items for safe disposal**
 - iii. **Remove forthwith dog faeces left by any dog which at the time the person is in charge of or responsible for**
 - iv. **Place a lead on a dog (which at the time the person is in charge of or responsible for) when the dog is on a pavement by a road (within 3 metres of a carriageway) or when required to do so by an authorised officer**
 - v. **Ensure that any dog (which at the time the person is in charge of or responsible for) having entered a children's play area, leaves that play area forthwith**

Anti-Social Behaviour & Environment Team
Residents Services
asbinvestigations@hillington.gov.uk
www.hillingdon.gov.uk
London Borough of Hillingdon, Civic Centre, High Street Uxbridge, UB8 1UW

- vi. **Leave the area when required to do so by an authorised officer and not return within 48 hours**
- vii. **Produce licence issued by Hillingdon Council to carry Outdoor fitness instruction, including one to one tennis coaching**

Have your say

Should you wish to make a representation you must do so in writing within the consultation period which shall commence on 2 April 2021 to midnight on 30 April 2021.

The Council would like to have your views and feedback on the variation of the Order. Please forward your comments to us by using the email and postal address below.

Contact details

If you have any questions about this consultation, contact ASB Investigations Team.

Email: ASBInvestigations@Hillingdon.gov.uk

Write to:

ASB Team (PSPO)
2 East 08
Civic Centre
High Street
Uxbridge
UB8 1UW