

## **NON-SURGICAL USE OF CLASS 3/4 LASERS**

<b>Cabinet Member</b>	Councillor Jonathan Bianco
<b>Cabinet Portfolio</b>	Finance, Property and Business Services
<b>Officer Contact</b>	Oliver Darius, Planning, Environment and Community Services
<b>Papers with report</b>	Appendix - Special Treatment Regulations Licence Conditions

### **HEADLINE INFORMATION**

<b>Summary</b>	After 1st October 2010 the non surgical use of lasers and also intense light pulse (ILS) systems will no longer be regulated like other parts of the cosmetic and beauty industry. To continue protection for the public, such activities may be controlled by the Local Authority. Such controls can be included alongside existing regulatory services dealing with other beauty treatments. An amended set of prescribed conditions is to be considered to include lasers and ILS, in line with the existing service, a scheme of fees and charges may be considered.
<b>Contribution to our plans and strategies</b>	Council Plan 'A Safer Borough'
<b>Financial Cost</b>	The annual license fee will generate an estimated £9000 per annum, this will cover the costs of operating the scheme.
<b>Relevant Policy Overview Committee</b>	Residents' and Environmental Services
<b>Ward(s) affected</b>	ALL

### **RECOMMENDATION**

**That the Cabine:**

- 1) Agree to amend the Special Treatment Regulations Licence Standard Conditions prescribed under Section 10 of the Regulations to include Lasers;**
- 2) Agree that the Council should introduce a fee of £750 for a licence for up to 18 months and;**
- 3) Agree to ancilliary amendments to Special Treatment Regulations Licence Conditions as set out in the Appendix.**

## Reasons for recommendation

It is recommended that standard conditions prescribed under Section (10) of the Regulations made under Part II of The London Local Authorities Act 1991 be amended. This is to encompass the non surgical use of lasers and intense light systems within the regulatory framework of special treatment licensing.

It is proposed that a new Laser category will be introduced to the scheme of fees and charges. This shall be subject to a review, along with a review of the of special treatment scheme of fees and charges in 2012. This is to ensure funding for the service and continued protection to members of the public. The recommended fee is £750

The ancillary amendments will bring them in line with current legislative requirements. Amendments are highlighted in the background paper Special Treatment Regulation Licence conditions.

## INFORMATION

Businesses operating special treatments must be licensed under regulations made by the London Borough of Hillingdon. A scheme of fees and charges apply. Licences must be renewed no less than once every 18 months. A strategy of regulatory interventions including inspections of businesses is in place to target high-risk activities within these businesses so as to ensure public safety.

Without the correct safety measure in place laser treatments can lead to facial swelling, skin infections, scarring and burning. The Independent Healthcare Advisory Services, Association of Laser Protection Healthcare Advisors and the Department of Health have proposed essential standards for the use of Lasers to be used across the UK. The Special Treatment Group made up of 32 London Boroughs is to consider these standards and determine how they work in practice as part of the London regulatory framework for special treatments. The essential standards have been used to draft Code of Practice 13.

## Examples of treatments currently using laser and light equipment

Vascular treatments	Port wine stains, thread veins, leg veins
Pigmented treatments	Tattoo removal, photo aging
Ablative treatment	Removal of epidermal layers to reduce wrinkles and facial lines, wart removal and benign lesions
Photo Rejuvenation	Photo ageing, roscea
Hair removal	Body and facial hair

Laser protection advice from the Care Quality Commission is that controls must be put in place for the following reason

- To prevent eye damage,

- Control exposure,
- Control skin burns,
- Control the risk of fire/explosion,
- Prevent electric shock,
- Surface reflection of laser light,
- Chemical hazards,
- Regulate the use of Hydrochloric Acid,
- Reduce infection risks associated with burning,
- Restrict areas and personal protection for therapist as well as clients,
- Prevent laser exposure to members of the public.

A new Care Quality Commission registration system came into force on 1st October 2010. In this new system the non surgical use of lasers and also intense light pulse (ILS) systems will no longer be regulated like other parts of the cosmetic and beauty industry.

Independent Healthcare Advisory Services (IHAS) and the Association of Laser Protection Healthcare advisors (ALPHA) have been seeking an alternative arrangement to ensure the continued protection of the public.

To continue protection for the public, such activities may be controlled by Local Authority. Such controls can be included alongside existing regulatory services provided for by the London Local Authorities Act 1991, within the terms and conditions controlling special treatments. Lasers and Intense Light Treatments will have to meet essential standards before they can operate, thereby preventing as far as reasonably practicable injury and ill health.

Essential standards are to be adapted for use in Code of Practice 13 within the licencing regime and would become enforceable.

By applying standards an age limit may be introduced in order to protect young people. (age restrictions for under 16)

### **Recommended Fee**

Fees to be charged were discussed at the Special Treatments Working Group (made up of 32 London Local Authorities including Hillingdon) The group advised that LB Harrow are to charge £1000, LB Enfield are to charge £600 LB Westminster are to charge £600 and Croydon will levy no additional charges over and above their standard scheme of special treatment charges (they operate a flat rate charge to all businesses.)

The recommended fee of £750 is about 75% of the rate charged by Care Quality Commission. This will lessen the burden upon existing operators of laser treatments and reduce the possibility of a challenge under the EU Services Directive, whilst increasing revenue to the service. The recommended fee takes into account that all businesses affected are currently licensed by Hillingdon and are already charged a fee at a level dependant upon the existing beauty treatments offered. The fee of £750 is in addition to existing fees and is considered to be proportionate to the estimated officer time, including training, management costs, consumables and other overheads. Under the EU services directive fees set must be 'proportionate to the effective cost of the procedure dealt with, and must not be used as an economic deterrent.'

### **Ancillary amendments to Special Treatment Regulations Licence standard Conditions**

Amendments are proposed to reduce the administrative burden of processing licence renewals on the Council and remove unnecessary burdens on the business e.g. requiring evidence of qualifications to be kept on site, removing named therapists from the licence, removing the need for therapist updates. This also allows for greater flexibility in the business, permitting use of different therapists and removing a technical offence of not operating within the terms and conditions of the licence. Business will not have to send certificates and other documentation in the post. This approach is consistent with the objectives set out in the Regulators compliance code concerning Economic Progress.

Further amendments proposed update the regulations in line with ancillary legislation on fire safety and controlled waste as well as the use of anaesthetics.

Also to protect Children under the age of 16, who will require parental consent

### **Alternative options considered / risk management**

IHAS and ALPHA have developed essential standards which reflect arrangements required for the safe and quality provision of laser treatments, which may be used as part or a registration scheme, akin to, for example Gas Safe Registration. Such a scheme however is not in place or ready for launch.

Lasers and Intense Light Treatments may simply be regulated through existing and general provisions of the Health and Safety at Work Act 1974. Businesses may operate outside standard conditions; unsafe practices may be remedied by serving of statutory enforcement notices. This is potentially a more reactive approach. No revenue will be achieved.

### **Comments of Policy Overview Committee(s)**

No comments at this stage

### **Financial Implications**

The costs incurred will be for staff time in the administration of the scheme plus initial annual inspections for all sites operating ILS systems, these annual inspections will potentially reduce after a risk assessment of the operators is concluded after the initial inspection. There will also be some upfront training costs for 2 members of staff estimated to be £600.

These costs will be recovered through the fees levied on the business. Accordingly implementation of the report recommendations will be cost neutral. An income may be generated, in line with the EU Service Directive; this must not be disproportionate to the cost of providing the service

Should the cabinet approve the introduction of lasers into the regulatory regime of the London Local Authorities Act, an estimated income of £9,000 per annum may be achieved. This is based on the current 12 known operators of ILS systems being charged an annual fee £750 fee.

### **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

The proposed recommendation shall reduce the regulatory burden on existing businesses through reducing the fee charged to operators of Lasers and Intense Light Systems.

Other ancillary amendments to the regulations reduce administrative burden on both the council and the business. The recommendation supports business in the economic recovery and is consistent with Hampton principles highlighted in the Regulators Compliance Code.

The proposal will protect as far as reasonably practicable, injury and ill health resulting from laser and intense light treatments and will also protect children by securing an age limit for such treatments.

### **Consultation Carried Out or Required**

To all businesses affected, the Special Treatment Working Party, (IHAS) ALPHA and Hair and Beauty Industry Authority (HABIA)

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

Corporate Finance has reviewed this report and is satisfied that the financial implications properly reflect the direct resource implications for the Council. It is satisfied that the estimated income from the annual license fee will cover the costs of operating the scheme.

### **Legal**

The above recommendation is in accordance with the legislative requirements surrounding Special Treatment Premises. The Council do have the power to licence Special Treatment Premises pursuant to Part II of The London Local Authorities Act 1991 ("the Act"). Section 10 of the Act provides the Council with the power to prescribe standard terms, conditions and restrictions by the making of regulations prescribing the standard conditions applicable to all licences. As legislative changes occur it is important to ensure that the standards conditions are reviewed and revised accordingly to ensure that they are current and applicable.

Although not a statutory requirement, it is prudent to undertake the informal consultation process outlined in the report. In considering any consultation responses, officers must ensure that there is full consideration of the representations from consultees, including those that do not accord with the proposals.

## **BACKGROUND PAPERS**

General scheme of Fees and Charges for Special Treatments  
Explanatory notes relating to the application of a Special Treatments Licence