

Definitions

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

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

“Application Form” means the ‘Fitness and small-group activities in Parks and Open Spaces - Application Form’, to which these terms & conditions are attached.

“Council” means the Mayor and Burgesses of the London Borough of Ealing (LBE)

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

“Fitness or small-group activity session(s)” refers to the activity session(s) carried out by the Provider or the Applicant (as the case may be) as specified on the Application Form;

“Permit” means that permission has been given to carry out the proposed activities as defined on the Application, and in conjunction with these terms and conditions

“Permit Fee” means the fee payable by the Applicant;

“Provider” means any individual(s) responsible for delivering the agreed activity sessions, or otherwise engaged by the Applicant in accordance with this Registration, to include any employee or agent of the Applicant.

“Registration” means registration by the Council as permitted to carry out Activity Session in the Parks during the Registration Period and **“Registered”** shall be interpreted accordingly;

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

“Site” refers to the LBE Parks or Open Spaces, or designated areas within a Park or Open Space, as specified on the Application Form or otherwise agreed in writing between the Applicant and the Council. This includes all sites in Ealing Borough covered by the 2000 byelaws relating to pleasure grounds, public walks and open spaces plus Warren Farm Sports Ground and such other open spaces as the Council may agree in writing;

1. Application

1.1. Applicants must be Registered with the Council to carry out fitness or small-group activity sessions in LBE Parks and Open Spaces.

1.2. For the Council to consider an application for a permit, the Applicant must complete and submit an Application Form together with the following:

1.2.1. Where the Applicant is an individual:

1.2.1.1. Copy of a site map clearly showing proposed site/area of use for the Fitness or small-group activity session(s);

1.2.1.2. Copy of the Applicant’s emergency procedures relating to the proposed Fitness or small-group activity session(s) and emergency arrangements 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;

1.2.1.3. Copy of the Applicant’s risk assessment relating to the proposed Fitness or small-group activity session(s) 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 (e.g. Oak Processionary Moth/Legionella's disease);

1.2.1.4. Details of the Applicant's Child Protection arrangements and DBS Certification where applicable (please refer to current DBS guidance), for all activities specifically engaging minors under the age of 18;

1.2.1.5. Details of all activities and procedures surrounding those activities, where minors will be attending in the absence of their parents/guardians;

1.2.1.6. The name of the individual responsible for delivering the agreed activity session(s); the Applicant (and any Provider(s))

1.2.1.7. Evidence of REPS Level 3 fitness qualification where applicable;

1.2.1.8. Evidence to demonstrate compliance with the insurance requirements as set out in clause 6 below.

1.2.2. Where the Applicant is a Company it must supply:

1.2.2.1. All of the documents and information listed in clause 1.2.1 (a), (b), (c) (d) and (e) above;

1.2.2.2. A list of all named providers. Should the details change during the Registration Period, the Applicant must update the Events Service accordingly within one week of such change;

1.2.2.3. Confirmation that all providers will hold a REPS Level 3 fitness qualifications where applicable;

1.2.2.4. 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 Application	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 an Applicant to be registered.

1.5. Upon Application the Council will provide the Applicant with a registration number which the Applicant or its Provider(s) must hold at all times whilst carrying out Fitness or small-group activity sessions and produce upon request by any officer or agent of the Council. It is the Applicant's responsibility to ensure that its Providers hold the registration number issued at all times whilst carrying out Fitness or small-group activity sessions under this Agreement.

1.6. Following Registration, the Applicant or its Providers may carry out Fitness or small-group activity 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 Applicant and the Event Service.

1.7. The Applicant acknowledges that:

1.7.1. Registration does not guarantee that the Site will be open or that there will be space to carry out Fitness or small-group activity sessions;

1.7.2. Registration does not grant the Applicant priority over any other lawful user of the Site and;

- 1.7.3. Any sports pitch bookings or events hires will take priority over Fitness or small-group activity session, and the Applicant or its Provider(s) shall postpone their activities or relocate within the defined Site, if a conflict of interest occurs.

2. Applicants Obligations

- 2.1. The Applicant 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 or small-group activity session(s) proceed smoothly and safely, and do not interfere with other users of the Site, neighbours or local traffic.
- 2.2. The Applicant shall, and shall ensure that its Provider(s), observe and perform all reasonable requirements of the Council relating to this Agreement.
- 2.3. The Applicant shall utilise the Site in such a way as to allow for easy access and evacuation in the event of an emergency.
- 2.4. The Applicant must confirm to the Council, and supply evidence upon request, that all Provider(s) are properly qualified to carry out the proposed activities.
- 2.5. The Applicant will report any incidents, accidents or health and safety issues to the Event Service as soon as is reasonably practicable and will complete the relevant accident/incident forms as required.
- 2.6. The Applicant 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.
- 2.7. The Applicant shall not affix or install any equipment at the Site. Any equipment used must be removed after each activity session. The Applicant 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 Applicant will be liable to the Council for the full cost of any repairs or reinstatement works.
- 2.8. The Applicant must not light fire on the Site, without the prior written consent of the Council
- 2.9. The Applicant 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).
- 2.10. The Applicant is not permitted to bring vehicles onto the Site, without the prior written consent of the Council.
- 2.11. The Applicant must remove any equipment and rubbish and leave the Site in the same condition as it was found at the end of each Fitness or small-group activity session(s). Failure to comply could result in the Applicant being charged for the cost of any required reinstatement works and cleaning services to return the Site to its original condition.
- 2.12. The Applicant must not use any designated sports pitches unless these have been hired through the Council's Sports Booking Section.
- 2.13. The Applicant is not permitted to advertise its Fitness or small-group activity session(s) by way of posters or flyers in the Parks and Open Spaces, Park and Open Spaces' notice boards, fencing, railings or trees unless specific written permission has been granted by the Council in this respect.
- 2.14. The Applicant 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').
- 2.15. The Applicant will adhere to the Byelaws relating to Open Spaces in LBE, 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 Applicant 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 Applicant to carry out any activity for which a licence is required in relation to the proposed Fitness or small-group activity session(s), the Applicant must supply a copy to the Council not less than 28 days prior to the Registration Period commencement date.
- 3.2. The Applicant is not permitted to play music without the prior written consent of the Events Service. Where the proposed activities involve public performances and/or broadcast of musical works, the Applicant t 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 Applicant is not permitted to bring any traders or concessions onto the Site without the prior written consent of the Events Service.
- 3.4. The Applicant 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 Applicant and/or its Providers' ability to provide the agreed activity, throughout the Registration Period. Unannounced spot checks may also occur throughout the Event Period.
- 4.2. The Applicant may be required to present to the Council details of attendance figures and an analysis of users' anonymised personal data relating to the demographic of attendees.
- 4.3. The Applicant is required to keep a record of any complaints made concerning or in connection with any Fitness or small-group activity session(s) under this Agreement and must immediately notify the Events Service of any such complaint and keep the record of complaints available for inspection.
- 4.4. The Applicant is required to keep a record of any accidents or incidents that may occur at or in connection with the Fitness or small group activity session(s). The record of accidents and incidents should be made available to the Events Service upon request. Additionally, the Applicant must immediately notify the Events Service of any significant accidents or incidents including any that are reportable under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013).

5. Permit Fee and Payment

- 5.1. The Permit Fee payable by the Applicant shall be in line with the 'Permit to hold Fitness and small-group activities in Parks and Open Spaces - Fees and Charges'.
- 5.2. Fees and Charges will be reviewed at the beginning of each financial year.
- 5.3. Once the Applicant's application has been approved, the Applicant will receive written confirmation of the Permit Fee and payment plan.

6. Insurance and Liability

- 6.1. The Applicant 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. Copies of the insurance documents shall be presented to the Council upon request.
- 6.2. The Applicant 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 Applicant 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 Applicant, 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 Applicant's Registration and terminate this Agreement with immediate effect where the Applicant and/or its Provider(s):
 - 7.1.1. 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;

- 7.1.2. becomes incapable for any reason of efficiently performing as a competent and qualified Applicant and/or Provider;
- 7.1.3. 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. Where the Council terminates this Agreement under clause 7.1 the Applicants 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 Applicant wish to cancel the Agreement; 28 days' written notice must be provided to Council. The Applicant 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 Applicant, 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 Applicant 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 Applicant 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 Applicant.
- 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 Applicant hereby submit to the exclusive jurisdiction of the English Courts.