

Non-Executive Report of the:  <b>Licensing Committee</b>  11 <sup>th</sup> July 2019	 <b>TOWER HAMLETS</b>
<b>Report of:</b> David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	<b>Classification:</b> Unrestricted
<b>London Local Authorities Act 1991 Hearing to consider the revocation of the Special Treatment Licence of Health and Beauty Centre, 1 Gunthorpe Street, London E1 7RG</b>	

<b>Originating Officer(s)</b>	Natalie Thompson, Environmental Health Officer
<b>Wards affected</b>	Spitalfields and Banglatown

## 1. EXECUTIVE SUMMARY

Licence Holder:	<b>Healthy Paradise Limited</b>
Name and Address of Premises:	<b>Health and Beauty Centre 1 Gunthorpe Street London E1 7RG</b>
Licence sought to revoke:	<b>Special Treatment Licence under The London Local Authorities Act 1991</b>
Objectors:	<b>Environmental Health: Lekan Olomo, Health and Safety Officer, Licensing and Safety Team</b>

## 2. RECOMMENDATIONS

- 2.1 The Licensing Committee is recommended to consider the request to revoke the special treatment licence and then adjudicate accordingly.

## 3. BACKGROUND

- 3.1 This is a report by the Licensing and Safety Team to revoke the special treatment licence for Healthy Paradise Limited trading as Health and Beauty Centre, 1 Gunthorpe Street, London, E1 7RG following evidence obtained that the persons concerned in the conduct or management of the premises could reasonably be regarded as not being fit and proper persons to hold such a licence and the persons giving the special treatment are not suitably qualified.
- 3.2 A licence from the Council is required for the use of a premises as an establishment for special treatments. An establishment for special treatment is

defined in the Act as any premises in the borough used, intended to be used or represented as being used for the reception or treatment of persons requiring massage, manicure, acupuncture, tattooing, cosmetic piercing, chiropody, light, electric or other special treatment of a like kind or vapour, sauna or other baths. A special treatment licence renewal may be refused under The London Local Authorities Act 1991 Section 9 (2).

- 3.3 A special treatment licence may be revoked under The London Local Authorities Act 1991 Section 9(2).
- 3.4 Healthy Paradise Limited currently benefits from a special treatment licence. A copy of the licence can be found at **Appendix 1**.

#### **4. Legal Powers and Advice**

- 4.1 Licences are granted subject to standard conditions.
- 4.2 Those Standard Conditions of the London Borough of Tower Hamlets were made under the London Local Authorities Act 1991, Section 10 (1). It is the duty of any licence holder to be aware of and abide by those conditions. A copy of the standard conditions can be found at **Appendix 2**.
- 4.3 The council has made Regulations for annual special treatment licences under section 10 (1) of the London Local Authorities Act 1991. These are available as **Appendix 3**.
- 4.4 Under the London Local Authorities Act 1991 the borough may revoke a licence on the following grounds:
  - (a) the premises are not structurally suitable for the purpose;
  - (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
  - (c) the persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a license;
  - (d) the persons giving the special treatment are not suitably qualified;
  - (e) the premises have been or are being improperly conducted;
  - (f) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
  - (g) the means of heating the premises are not safe;
  - (h) proper precautions against fire on the premises are not being taken;

- (i) they are not satisfied as to the safety of equipment used in the special treatment or as to the manner in which the treatment is to be given;
- (j) they are not satisfied as to the safety of the special treatment to be given;
- (k) satisfactory means of escape in case of fire and suitable means for fighting fire are not provided on the premises;
- (l) the applicant has, within the period of five years immediately preceding the application to the borough council, been convicted of an offence under this Part of this Act.

4.5 Legislation provides that where an applicant is aggrieved at the Council revoking a licence, the applicant may within twenty one days of being notified of the Council's revocation appeal to a Magistrates Court. The Court may grant such an order as it sees fit.

4.6 An appeal by either party against the decision of the magistrates' court may be brought to the Crown Court.

4.7 Where any licence is revoked, under section 14 (Enforcement of Part II) of this Act the licence shall be deemed to remain in force –

- (a) until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
- (b) where an appeal relating to the refusal of an application for such a renewal is successful until the licence is renewed by the borough council.

## **5. Grounds for Refusal of the Licence**

5.1 The Environmental Health Department has requested the hearing with the Licensing Committee to revoke the licence. The report detailing the reasons for this can be found at **Appendix 4**. Find below a summary of the comments.

- The Licensing and safety team have reasons to believe that a person that is not considered to be a fit and proper person due to a recent conviction under the London Local Authorities Act 1991 now has management responsibilities at the premises.
- Several visits to the premises have revealed that the licence holder has been employing therapists to work at the premises without notifying the council as is required under condition 6 of their Special Treatment Licence.
- The therapists that have been employed are not suitably qualified to carry out the treatments they have been employed for.

## **6. Recommendations**

6.1 Following the report to revoke the licence, Members are asked to consider the representation when determining whether to revoke the licence.

## 7. Premises History

7.1 The Premises was granted a Special treatment Licence at a Licensing Committee on the 24<sup>th</sup> May 2018.

7.2 The premises has received the following enforcement visits and complaints in the last 24 months:

7.3

Date	Authority/ Complaint	Nature of visit/ complaint
8/3/18	Licensing and Safety visit	Full Licensing audit. The person responsible for the management of the premises, Mr Gary Bugby and Chunhong Chen were both present. The following issues were noted at the time of the visit. <ol style="list-style-type: none"> <li>1. No Price List.</li> <li>2. No lidded bins</li> <li>3. No waste contract..</li> </ol>
27/6/18	Licensing and Safety visit	Revisit to the premises. Refurbishment taking place. Items requested at the time of the visit. <ol style="list-style-type: none"> <li>1. Waste contract</li> <li>2. Insurance</li> <li>3. Portable Appliance Testing</li> <li>4. First Aid Box</li> </ol>
14/8/18	Licensing and Safety visit	Revisit to check items requested on previous visits and to investigate a complaint about waste that had been left outside premises. Essential requirements were met.
7/9/18	Complaint from member of the public	Complaint that the premises was staying open until 11pm. This complaint was referred to the council's planning enforcement team.
25/9/18	Complaint from member of the public	Complaint that the premises was staying open later than permitted hours. Licence holder spoken to and complaint referred to planning enforcement team.
13/3/19	Complaint from member of the public	Complaint alleging the premises is unlicensed as the licence holder had vacated the premises.
22/3/19	Complaint from member of the public	Complaint that the previous occupiers were operating at the premises.
8/4/19	Complaint	Complaint that the premises was being run by

	from member of the public	the previous occupants- Mr Wai Ming Yau and Chak Wa Yiu.
11/4/19	Licensing and Safety visit	Visit following the previous complaint. An un approved therapist was noted to be working at the establishment. Email was sent to the licence holder.
14/4/19	Complaint from member of the public	Complaint that the previous occupiers Mr Wai Ming Yau and Chak Wa Yiu had just been seen leaving the premises Health and Beauty Centre, 1 Gunthorpe Street.
23/4/19	Complaint from member of the public	Complaint that the previous occupiers were operating premises Health and Beauty Centre, 1 Gunthorpe Street and that the premises was busy with male visitors.
29/4/19	Licensing and Safety visit	Visit to premises but no access as the premises was closed.
7/5/18	Licensing and Safety visit	Visit following the previous complaint. Two un approved therapists were noted to be working at the establishment.
28/5/19	Complaint from member of the public	Complaint that the premises was open beyond permitted hours.
30/05/19	Complaint from member of the public	Complaint that the premises was often open beyond permitted hours and that the previous occupants were still involved with the business.

## 8. Special Treatment Licences and Determination

9.1 Members should consider the Standard conditions and relevant legislation (see **Appendix 2** and **Appendix 3** respectively).

## 9. EQUALITIES IMPLICATIONS

10.1 There are no equalities implications.

## 11. OTHER STATUTORY IMPLICATIONS

11.1 Best Value implications: There are no best value implications.

11.2 Consultations: There were no necessary consultations for this revocation request.

11.3 Environmental considerations: There are no environmental implications.

- 11.4 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.
- 11.5 Crime reduction: One of the key licensing objectives of the Council ensure that it does not licence premises that are liable to be a source of crime and disorder. The Council supports and assists with crime and disorder reduction by controlling those who manage premises open to members of the public and imposing conditions on relevant premises licences. Management of the premises resides with persons recently prosecuted under the Act and could be reasonably assumed as not fit and proper to hold such a licence.
- 11.6 Safeguarding: There are no proven safeguarding impacts; however premises that are managed in this way may employ underage persons or vulnerable adults. Therefore there may be a positive safeguarding impact.
- 11.7 Data Protection/ Privacy Impact Assessment: The documents associated with this report have been redacted to comply with data protection. A privacy Impact assessment does not apply to this report.

## **12. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 12.1 There are no direct financial implications emanating from this report. However, cost implications could arise if any decision were to be appealed through the Magistrates or Crown Courts. These costs would need to be met within existing budget provisions.

## **13. COMMENTS OF LEGAL SERVICES**

- 13.1 Section 10 of the London Local Authorities Act 1991 ("the Act") enables the local authority to make regulations prescribing standard conditions applicable to all licences for special treatment premises.
- 13.2 The London Borough of Tower Hamlets made such regulations produced at Appendix 3 to this report. Regulation 6A states that, the licensee or some responsible person nominated by him in writing for the purposes shall be in charge of, and at, the licensed premises during the whole time that they are open to the public. The nomination should be written and available for inspection by any officer authorised in writing by the Council. The licensee, Gary Bugby was not in attendance when the premises were visited on 11 April or 7 May and no one has been nominated in his place.
- 13.3 Regulation 8 (A) states that treatment shall only be given by qualified persons who have been approved by the Council. Regulation 8( C )Treatment may also be given by another person provided the person giving treatment is under the personal supervision of a person approved by the Council and the Council's consent has been obtained and is current at the time of treatment. On 7 May 2019 the therapists seen by the officers had not been approved by the Council to provide treatment.

- 13.4 Condition 6 of the London Borough of Tower Hamlets Massage and Special Treatment Licence Conditions produced at Appendix 2 to this report, states that all treatments shall be given only by persons approved by the Council or, provided that the written consent of the Council has been obtained, under the personal supervision of a person approved by the Council.
- 13.5 Section 9(2) of the Act empowers the Council to revoke a special treatment licence for any of the reasons set out in section 8 of the Act which are set out in paragraph 4.4 of this report. Section 8 of the Act sets out the grounds under which a special treatment licence can be revoked by the Council.
- 13.6 On 26 March 2019, the previous licence holder Mr Wai Ming Yau and Mrs Chak Wa Yiu were convicted of using 1 Gunthorpe Street E1 as an establishment for special treatment without a special treatment license.(see Appendix 4). He is the person who appears to be involved in the managing the premises in the absence of Mr Bugsby.
- 13.7 The Licensing Committee may revoke the licence on the following grounds:
- (a) the persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a license in breach of Section 8 of the Act (see paragraph 4.4c of this report) and/or
- (b) the persons giving the special treatment are not suitably qualified in breach of Regulations 8(A) and ( C) (see Appendix 3).

#### 14. **APPENDICES**

<b>Appendix 1</b>	A copy of the current special treatment licence.
<b>Appendix 2</b>	Regulations for annual special treatment licences under section 10 (1) of the London Local Authorities Act 1991
<b>Appendix 3</b>	A copy of the standard conditions for special treatment licences.
<b>Appendix 4</b>	Report from the Environmental Health Department
<b>LOL1</b>	Email from Member of the public Mr Daron Pike 13/3/19 14:26
<b>LOL2</b>	Email from Member of the public Mr Daron Pike 13/3/19 17:32
<b>LOL3</b>	Email from Landlord of the premises 16/4/19
<b>LOL4</b>	Email from Company director for licensee 17/4/19
<b>LOL5</b>	Email from Landlord of the premises 18/4/19
<b>LOL6</b>	Email from Mr Olomo (Env Health) 24/04/19
<b>LOL7</b>	Email from Mr Olomo (Env Health) 7/05/19

**Local Government Act, 1972 Section 100D (As amended)**

**List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- NONE

**Officer contact details for documents:**

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