


<p>Non-Executive Report of the:</p> <p>Licensing Committee</p> <p>13th September 2018</p>	 <p>TOWER HAMLETS</p>
<p>Report of: David Tolley, Head of Environmental Health and Trading Standards Directorate of Place</p>	<p>Classification: [Unrestricted]</p>
<p>London Local Authorities Act 1991 Hearing to consider the revocation of the Special Treatment licence of Cheng Xiang Chinese Medicine Limited trading as Health One 66 Middlesex Street, London, E1 7EX</p>	

Originating Officer(s)	Natalie Thompson, Principal Environmental Health Officer
Wards affected	Spitalfields and Banglatown

1. Summary

Licence Holder: **Cheng Xiang Chinese Medicine Limited**

Name and
Address of Premises: **Health One
66 Middlesex Street
London
E1 7EX**

Licence sought to revoke: **Special Treatment Licence under The London Local Authorities Act 1991 Application for a new Special Treatment Licence**

Objectors: **Amran Ali, Health and Safety Officer, Licensing and Safety Team**

2. Recommendations:

- 2.1 The Licensing Committee is recommended to consider the request to revoke the 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 of **Cheng Xiang Chinese Medicine Limited** trading as **Health One 66 Middlesex Street, London, E1 7EX** following a successful prosecution at Thames Magistrates Court on 19th June 2018 and a further test purchase on 26th July 2018 at the premises revealing that services of a sexual nature were still being offered at the premises. This is in breach of regulation 7 (B) of the Regulations made by the London Borough of Tower Hamlets under

section 10 (1) of the London Local Authorities Act 1991 - for allowing the premises to be used by prostitutes, for soliciting or other immoral purposes.

- 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 may be revoked under The London Local Authorities Act 1991 Section 9 (2).
- 3.3 **Cheng Xiang Chinese Medicine 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 3**.
- 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 2**.
- 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 Revocation 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 business was prosecuted on the 19th June 2018 and the company was found guilty of offering services of a sexual nature. Therefore the business was, within the period of five years immediately preceding the application to the Licensing Committee, convicted of an offence which is a breach of Section 8(l) of the London Local Authorities Act 1991.
- Following the prosecution, a further test purchase was conducted at the premises on the 26th July 2018, which found that the test purchaser was offered services of a sexual nature at the end of a massage at the premises. Therefore the business is being improperly conducted which is a breach of Section 8(e).

- Both of the directors of the company Cheng Xiang Chinese Medicine Limited, Mr Haijun Zuo and Ms Xiaoli Song are responsible for the management of the premises Health One, 66 Middlesex Street, London E1 7EZ. Both are listed on the most recent application form received by the council and both were also listed as therapists approved to carry out massage treatments. Therefore the persons concerned in the conduct and 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 accordance with Section 8(c).

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 Summary of Premises and Licence History

- 7.1 On the 15th August 2016 the Licensing and Safety team was notified by a food safety officer that the Premises Health One at 66 Middlesex Street was advertising massage services without a licence.
- 7.2 On the 15th August 2016 the premises was visited and told to cease advertising or offering special treatments until a licence was in place.
- 7.3 On the 22nd August 2016 Mr Haijun Zuo applied for a special treatment licence under the company name Cheng Xiang Chinese Medicine. Xiaoli Song was listed as the person responsible for managing the business. Haijun Zuo and Xiaoli Song were listed as the only therapists on the application form.
- 7.4 Following visits and further action required a Special Treatment Licence was issued on the 31st October 2016. A special treatment licence has been in place since this time.

8 Complaints and Enforcement History

- 8.1 On the 13th April 2017 a petition containing 101 signatures of residents local to the Middlesex Street area was handed to the council by the Corporation of London. The petition requested that all massage premises in the area were investigated for compliance with their licence conditions.
- 8.2 The premises has received the following visits from the Local Authority in the last 24 months:

Date	Authority	Nature of visit
29/09/2016	Licensing and Safety	Licence inspection. Several points required action prior to issuing the licence. No sharps boxes in place or contract for clinical waste. Consent form did not detail medical conditions or treatment given. No first aid box on site. No rubber gloves for acupuncture treatments. No Alcohol wipes. No written aftercare advice at the premises. No procedures for blood spillages or needlestick injuries.

31/10/2016	Licensing and Safety	Revisit to check action taken. Licence issued.
07/06/2017	Licensing and Safety	Test purchase. Services of a sexual nature were offered to the test purchaser at the time of the visit.
23/06/2017	Licensing and Safety	Test purchase. Services of a sexual nature were offered to the test purchaser at the time of the visit.
27/09/2017	Licensing and Safety	Licence inspection following a renewal application. Several new therapists were approved. Licence renewed.

- 8.3 The licence holder was prosecuted under the London Local Authorities Act 1991. The case was heard at Thames Magistrate Court on 19th June 2018. The defendant pleaded not guilty to breaching the conditions of the licence by allowing the premises to be used for purposes other than to carry out special treatments and allowing the premises to be used by prostitutes, for soliciting and other immoral purposes. Cheng Xiang Chinese Medicine Limited was found guilty of breaching the conditions of the licence by allowing the premises to be used for purposes other than to carry out special treatments.
- 8.4 Cheng Xiang Chinese Medicine Limited was sentenced as follows;
 Fine: £1250
 Costs: £2000
 Victim surcharge: £125
- 8.5 On the 14th August 2018 the Council received an email from a complainant including evidence of misuse of the premises sent to him by a resident of the City of London. The evidence was from a website called UKpunting. The reviews on the site are dated 16th July 2018 and include references to sexual services received by customers at the premises Health One, 66 Middlesex Street, London, E1 7E2. This is included as **Appendix 5**.

9 Special Treatment Licenses and Determination

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

10 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 Environmental considerations: There are no environmental implications
- 11.3 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. Illegal activity has been proven to occur at the premises.

- 11.4 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.
- 11.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.

12 **COMMENTS OF THE CHIEF FINANCE OFFICER**

Comments to be added by Finance

13 **LEGAL COMMENTS**

- 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 2 to this report. Regulation 7(B) states that, the licensee shall ensure that no part of the premises is used by prostitutes, for soliciting or any other immoral purposes.
- 13.3 Condition 6 of the London Borough of Tower Hamlets Massage and Special Treatment Licence Conditions produced at Appendix 3 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.
- 13.4 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.
- 13.5 On 19th June 2018, the licence holder Cheng Xiang Chinese Medicine Ltd and its director Haijun Zuo were convicted of using the premises for the purpose of soliciting services of prostitution in breach of condition 7(B) of the prescribed standard conditions (see paragraph 3.1 above).
- 13.6 The court dealt with these matters through the Single Justice Procedure which does not involve any hearing if the Defendant writes to the court beforehand indicating guilty pleas. In this instance, the licence holder and its director pleaded not guilty to the charges, and so the matters were set down for trial.

- 13.7 According to exhibit AMA1, on 7th June 2018, a masseuse working at the premises offered services of a sexual nature.
- 13.8 The Licensing Committee may revoke the licence on the following grounds:
- (a) the licence holder has been convicted of an offence within 5 years immediately preceding the application for the licence in breach of Section 8 of the Act (see paragraph 4.4I of this report) and/or
 - (b) if satisfied that on 7th June 2018, the licence holder improperly conducted its business in breach of Regulation 7(B) (see Appendix 2).

14 Appendices

Appendix 1	A copy of the current special treatment licence.
Appendix 2	Regulations for annual special treatment licences under section 10 (1) of the London Local Authorities Act 1991
Appendix 3	A copy of the standard conditions for special treatment licences.
Appendix 4	Report from the Environmental Health Department
Appendix 5	Email containing evidence of sexual services being offered at Health One, 66 Middlesex Street, London, E1 7EZ
AMA1	Witness statement following 7 June 2017 test purchases
AMA2	Witness statement following 23 June 2017 test purchases
AMA3	Single Justice Procedure Notice in relation to the business at the premises of 66 Middlesex Street, London E1 7EZ
AMA4	Witness statement from the test purchase following the prosecution and conviction of Cheng Xiang Chinese Medicine Limited .
AMA5	Companies House information on Directors of Cheng Xiang Chinese Medicine Limited
AMA6	Application form for current special treatment licence for Health One, 66 Middlesex Street E1 7EX
AMA7	Application form for the last special treatment licence for Health One, 66 Middlesex Street E1 7EX dated 17.8.2016

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.