


Non-Executive Report of the:	 TOWER HAMLETS
<p style="text-align: center;">Licensing Committee</p> <p style="text-align: center;">8th September 2020</p>	
Report of: David Tolley, Head of Environmental Health and Trading Standards Directorate of Place	Classification: Unrestricted
London Local Authorities Act 1991 Hearing to consider the objection to Sunflower London Ltd, 21 Wentworth Street, London E1 7TB renewing their Special Treatment Licence	

Originating Officer(s)	Kamal Miah, Environmental Health Officer
Wards affected	Spitalfields and Banglatown

1. EXECUTIVE SUMMARY

Licence Holder: **Sunflower London Ltd**

Name and Address of Premises: **Healthcare
21 Wentworth Street
London
E1 7TB**

Licence sought to refuse to renew: **Special Treatment Licence under The London Local Authorities Act 1991 Application to renew a Special Treatment Licence**

Objectors: **Charlotte Basten, Environmental Health Officer, Licensing and Safety Team**

2. RECOMMENDATIONS

- 2.1 The Licensing Committee is recommended to consider the objection to the renewal of the special treatment licence and then adjudicate accordingly.

3. BACKGROUND

- 3.1 This is a report by the Licensing and Safety Team to object to the renewal of the special treatment licence for Sunflower London Limited trading as Healthcare, 21 Wentworth Street, London, E1 7TB following evidence obtained that services of a sexual nature are being offered by the business at the premises. The business was prosecuted by the Council for breaches 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 and Condition 12 of the Massage and Special Treatment Licence-allowing female therapists to massage male clients without prior approval from the Council.

- 3.2 The matter of Sunflower London Limited was considered by the Thames Magistrates Court on 10th April 2019. The Company pleaded guilty to the two charges of breaching its special treatment licence conditions. It was sentenced to pay a fine of £500, Victim surcharge of £50 and Costs of £2500.
- 3.3 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.
- 3.3 A renewal of a special treatment licence may be refused under The London Local Authorities Act 1991 Section 8.
- 3.4 Sunflower London Ltd has applied to renew its special treatment licence which expired on the 15th of January 2020. 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 refuse to renew 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 refusing a licence, the applicant may within twenty one days of being notified of the Council's refusal 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 renewal is refused under section 8 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 renewal of the Licence

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

- Sunflower London Limited was prosecuted at Thames Magistrates Court on 19th April 2019. The Company pleaded guilty to the two charges of breaching its special treatment licence conditions.
- The business has been investigated and found to be offering services of a sexual nature to customers. A test purchase operative from a company hired by the council to carry out the visit took place on the 9th of January 2020. The operative wrote that during the massage, a female massage therapist called Cindy had asked him to take off his underwear, which he declined. The therapist had then bent down close to his ear and whispered to ask if he wanted something extra. The operative asked what she meant and the therapist made a movement with her hand in a manner indicating masturbating. She then said £20-£30 for a hand job and also £50-£60 for a hand job with no clothes on. The operative declined saying he didn't have enough money, but was told he could pay by card, which he declined as well. This was a clear offering of a sexual service in addition to the massage.
- Cindy the therapist who offered the sexual services to the test purchase operative is also known as Ms Liyan Guan was not listed as one of the therapists working at Healthcare and therefore had not been approved by the Council to provide massage services at the premises.
- The director of the company Xiao Qin Song is responsible for the management of the business and therefore the person concerned in the conduct and management of the premises. She should be reasonably regarded as not being fit and proper persons to hold such a licence on basis of the guilty plea.
- Under The London Local Authorities Act 1991 the Council may refuse to renew a licence held by a person for grounds mentioned in Section 8 of the Act which include the licence holder not being a fit and proper person to hold a licence (c) the persons giving the treatment not being suitably qualified (d) the premises being improperly conducted (e).

6. Recommendations

6.1 Following the objection the renewal of the licence, Members are asked to consider the representation when determining whether to refuse to renew the licence.

7. Summary of Premises and Licence History

7.1 The premises were first issued with a Massage and Special Treatment Licence on the 15th January 2016.

8. Complaints and Enforcement History

8.1 On the 13th April 2017 a petition containing 101 signatures of residents local to the Liverpool 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 2nd January 2020, the council received an email from a member of the public who reported being offered sexual services following a massage at Healthcare, 21 Wentworth Street, E1 7TB

8.3 The premises has received the following visits from the Local Authority in the last 5 years:

Date	Authority	Nature of visit
02/12/2015	Licensing and Safety	Premises found trading without a Special Treatment Licence
22/12/2015	Licensing and Safety	Follow up visit - Trading without special treatment licence
05/01/16	Licensing and Safety	Inspection prior to issue of a Special Treatment licence. Several Points required action. - Change cable extension in the washing/laundry room - Request passport photos of remaining therapist Request copy of newspaper advert
26/01/2017	Licensing and Safety	Licence inspection. Licence conditions were being upheld at the time of the inspection.
13/06/2017	Licensing and Safety	Test purchase. Services of a sexual nature offered.
18/01/2018	Licensing and Safety	Licence Renewal inspection. Several Points required action. - Remove treatments currently not on the licence from the price list - Issues of therapist qualification - Request for 3 rd party insurance - Request for customer vetting system
11th February 2019	Licensing and Safety	Licence Renewal inspection. Several Points required action. - Therapist cannot offer treatment until they have the required level of Beauty Therapy training. - Business is reminded to notify the Council of any new therapist with

		<p>required qualifications submitted for approval.</p> <ul style="list-style-type: none"> - Requirement to keep clients' records and keep them safe. - Devise and use a suitable customer vetting system such as a health questionnaire.
1/3/2019	Licensing and Safety	Test purchase. Licence conditions being upheld.
10/01/2020	Licensing and Safety	Test purchase. Services of a sexual nature offered.

8.4 The licence holder was prosecuted under the London Local Authorities Act 1991. The case was considered by the Thames Magistrates Court on 19th April 2019. The Company pleaded guilty to the two charges of breaching its special treatment licence conditions. It was sentenced as follows:

8.5 Sunflower London Limited was sentenced as follows;
 Fine: £500
 Costs: £2,500
 Victim surcharge: £50

9. **Special Treatment Licences 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 ensures 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.
- 11.6 Data Protection/ Privacy Impact Assessment: The application has been processed in line with the council's data protection policy. Some aspects of the appendices have been redacted for data protection purposes. No Privacy Impact Assessment required.

12. COMMENTS OF THE CHIEF FINANCE OFFICER

- 12.1 There are no material financial implications emanating from the decision to revoke the special treatment license for Sunflower London Ltd. The Council will lose the license income should the appeal decision be in our favour and incur legal costs. This will be managed within existing budget provision.

13. COMMENTS OF LEGAL SERVICES

- 13.1 Section 10 of the London Local Authorities Act 1991 enables the local authority to make regulations prescribing standard conditions applicable to all licenses for special treatment premises.
- 13.2 The London Borough of Tower Hamlets made such regulations which are produced as Appendix 2 to this report, and one of those regulations, 7(B) says, "The licensee shall ensure that no part of the premises are used by prostitutes, for soliciting or any other immoral purposes." Condition 6 of the licence says, "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."
- 13.3 Section 9(2) of the London Local Authorities Act 1991 empowers the Council to revoke a special treatments licence for any of the reasons set out in section 8 of that Act.
- 13.4 Section 8 of that Act sets out a number of grounds under which the Council can refuse to renew, as set out in paragraph 4.4 of this report.

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
CHB.HC.1	Special treatment licence renewal application and supporting documents.

CHB.HC.2	Email from complainant dated 29 th December 2019
CHB.HC.3	Witness statement of test purchase conducted on the 9 th January 2020
CHB.HC.4	Test purchaser's notes
CHB.HC.5	Email from Legal Services
CHB.HC.6	List of appointed officers for the company

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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