

<p>Non-Executive Report of the:</p> <p>Licensing Committee</p> <p>14th July 2022</p>	 <p>TOWER HAMLETS</p>
<p>Report of: David Tolley, Head of Environmental Health and Trading Standards</p>	<p>Classification: Unrestricted</p>
<p>London Local Authorities Act 1991 Hearing to consider revoking the special treatment licence for Vanilla Thai Massage, 1 Whites Row, London E1 7NF</p>	

Originating Officer(s)	Amran Ali, Health and Safety Officer
Wards affected	Spitalfields and Bangla Town

1. EXECUTIVE SUMMARY

Licence holder: **Cheung Lai Kwan**

Name and
Address of
Premises: **Vanilla Thai Massage
1 Whites Row,
London E1 7NF**

Licence sought to
revoke: **Special Treatment Licence under The London Local
Authorities Act 1991**

Applicant: **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 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 from Cheung Lai Kwan relating to Vanilla Thai Massage, 1 Whites Row, London E1 7NF. This is following 2 test purchases carried out at the business premises and on each occasion, services of a sexual nature were offered to the test purchaser. Such offering is a 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.
- 3.3 Currently, Cheung Lai Kwan holds a special treatments licence for the business, Vanilla Thai Massage at 1 Whites Row to carry out Thai Massage, Swedish Massage, NBS (neck, back & shoulders) Massage, Foot Massage and Seated Massage. The licence expires on the 17th of October 2022.
- 3.4 Under Section 9(2) of the London Local Authorities Act 1991 the Borough Council may revoke a licence held by a person for grounds mentioned in Section 8 which includes premises being improperly conducted and the licence holder not being a fit and proper person to hold a licence.

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 blank copy of the standard conditions is exhibited as **Appendix 1**.
- 4.3 The council has made Regulations for the annual special treatment licences under section 10(1) of the London Local Authorities Act 1991. These are available as **Appendix 2**.
- 4.4 Under section 8 of 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 Section 9(2) of the London Local Authorities Act 1991 provides that the Council may revoke a special treatment licence on any of the section 8 grounds. Where a licence is revoked under s.9(2) it is deemed to remain in force until the time limit for bringing and, if such an appeal is brought, until the appeal is determined or abandoned.

5. Licence Revocation Request

- 5.1 The Environmental Health- Licensing and Safety Team have submitted an application to revoke the current special treatment licence held by Cheung Lai Kwan which expires on the 17th October 2022. This is on the grounds that the premises have been improperly conducted. Furthermore, standard conditions were also found to be in breach. Please see copy of the revocation request on **Appendix 3**. Below is a summary of the reasons for the licence revocation;
- a) On the 16th of October 2021, a test purchase was carried out by a professional surveillance company and found that services of a sexual nature were offered by the therapist towards the end of the massage treatment.
 - b) On the 29th of October 2021, another test purchase was carried out by the same test purchaser and again the therapist offered services of a sexual nature during the massage treatment.
 - c) On the 27th January 2022, a compliance visit was carried out at the business premises. Two massage therapists were present at the premises but only one therapist, was approved by the council to provide massage treatments. The other therapist was not listed as a therapist nor any competency information including qualification certificate(s) was provided of her during the most recent

renewal application or the application before that. This was a breach of condition 6 of the standard licence conditions.

- d) Cheng Lai Kwan's solicitor stated by email that his client has been in Hong Kong since January 2020 and therefore has not been at the premises since then to properly manage the business. Furthermore, he stated the business has now been sold.
- e) For the reasons above, the licence holder cannot reasonably be considered as a fit and proper person to hold a special treatments licence.

6. Recommendations

- 6.1 Following the licence revocation application by the Environmental Health, Licensing and Safety Team, Members are asked to consider the representation to revoke the current special treatments licence when concluding to a decision.

7. Special Treatment Licences and Determination

- 7.1 Members should consider the relevant Regulations made by Tower Hamlets Council and Standard Conditions (see **Appendix 1** and **Appendix 2** respectively).

8. EQUALITIES IMPLICATIONS

- 8.1 There are no equalities implications.

9. OTHER STATUTORY IMPLICATIONS

- 9.1 Best Value implications: There are no best value implications.
- 9.2 Environmental considerations: There are no environmental implications.
- 9.3 Crime reduction: One of the key licensing objectives of the Council is to 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.
- 9.4 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.
- 9.5 Risk Management: The Council will be at risk of legal challenge if its processes are not transparent and evidentially based.

10. COMMENTS OF THE CHIEF FINANCE OFFICER

- 10.1 The report seeks approval for the revocation of the special treatment license at Vanilla Thai Massage. There are no financial implications emanating from this request, with any costs incurred and income lost being contained within existing budget provision.

11. COMMENTS OF LEGAL SERVICES

11.1 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.

11.2 The London Borough of Tower Hamlets made such regulations which are produced as Appendix 3 to this report. Regulation 7(B) provides that “The licensee shall ensure that no part of the premises are used by prostitutes, for soliciting or any other immoral purposes.” Condition 8 provides that “Except as provided by 8(c) below, treatments shall be given only by qualified persons who have been approved by the Council...” This is subject to certain administrative provisions being complied with. The exception in Regulation 8(c) is that the person giving treatment is under the personal supervision of a person approved by the Council and the Council has given written consent for the person to give the treatment

11.3 Section 9(2) of the London Local Authorities Act 1991 allows the Council to revoke a special treatments licence for any of the reasons set out in section 8 of the Act. Those reasons appear at paragraph 4.4.

11.4 The Committee may decide to take no action on the application, to issue a warning, or to revoke the licence.

12. APPENDICES

Appendix 1	A blank copy of the standard conditions for special treatment
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	licence
Appendix 2	Regulations made by Tower Hamlets for annual special treatment licences under Section 10(1) of the London Local Authorities Act 1991
Appendix 3	Application for licence revocation from the Environmental Health and Trading Standards Department – Licencing and Safety Team
AMA.VTM.001	Witness statement following test purchase on 15/10/21
AMA.VTM.002	Witness statement following test purchase on 29/10/21
AMA.VTM.003	A copy of the received application and supporting documents
AMA.VTM.004	Copy of Licence Conditions for October 2020-October 2021
AMA.VTM.005	Licence renewal application October 2021
AMA.VTM.006	Copy of Special Treatments Licence for October 2021-2022
AMA.VTM.007	Copy of Licence Conditions for October 2021-2022
AMA.VTM.008	Copy of site visit report on 27/01/22
AMA.VTM.009	Copy of email from defence solicitor, Robert Wong dated 20/01/2022
AMA.VTM.010	Copy of email from defence solicitor, Robert Wong dated 13/05/2022

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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