

Licensing Regulatory Committee - 13 December 2017

Non-confidential minutes of the meeting of the Licensing Regulatory Committee held at the Town Hall, Upper Street, N1 2UD on 13 December 2017 at 4.00 pm.

Present: **Councillors:** Nurullah Turan (Chair), David Poyser and Michelline Safi- Ngongo

Councillor Nurullah Turan in the Chair

55 **APOLOGIES FOR ABSENCE (Item A1)**

Received from Councillor Marian Spall.

56 **DECLARATION OF SUBSTITUTE MEMBERS (Item A2)**

None.

57 **DECLARATIONS OF INTEREST (Item A3)**

None.

58 **MINUTES OF THE PREVIOUS MEETING (Item A5)**

RESOLVED:

That the minutes of the meeting held on 6 November 2017 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

59 **APPLICATION FOR THE RENEWAL OF A SPECIAL TREATMENT LICENCE - GOLDEN HEALTH, 128 JUNCTION ROAD, LONDON N19 5LB (Item B1)**

The Licensing Officer reported that the applicant had submitted a second witness statement, dated 12 December 2017, and members confirmed receipt of this.

In response to questions from members, the Licensing Officer reported that the premises were situated in Junction Ward, which was one of her areas of responsibility and she guessed she would have visited the premises in August 2016 and again in August 2017. The application was received on 23 August 2017.

The applicant's legal representative stated that Ms Wang had been a Director of the company since 2014 and had been the licensee since.

Referring to the Police statement of visits to the premises in March and November 2017, the applicant's legal representative noted that clients at the premises had confirmed that they had not been offered sexual services. The premises known as

Golden Health was the applicant's livelihood, she attended most days and she understood that it was her responsibility to supervise her staff and to ensure that rules were complied with. The allegations made by the Police about the premises all came from the website and the veracity of the posts on the website could not be confirmed. Some of the clients at the premises were women. The circumstances of the presence of a female visitor at the premises on the Police visit of 22 July 2017 were explained to the Committee by the applicant. The applicant had informed her legal representative that she had misunderstood a question asked by the Police at one of their visits when they had asked to see staff records and she had informed them that she did not keep records. In fact, she did keep records and had qualification certificates, licences, IDs and contracts of employment for each of them. These records were kept in a locked drawer at the premises. The staff at the premises wore a uniform and the member of staff who had been seen by the Police at the visit on 11 November 2017, not in uniform, had told her manager (the applicant) that she had been late in arriving at work and had had no time to change into her uniform. The applicant's representative added that members of the staff were present at this meeting as witnesses for the applicant and for questions from members. She drew members' attention to the second witness statement produced by the applicant, which attached a price list, a notice for customers and staff payslips. The contract of employment between Golden Health and the staff made it clear that staff could provide body massage only and no other types of massage and, if they did, they could be dismissed. The notice to customers made it clear that no sexual services were offered to clients at the premises.

The applicant's representative noted that the internet research carried out by the Police had taken place on 7 November 2017 ie after the Licensing Regulatory Committee on 6 November 2017. The posts on the website were described as "unsavoury" and were from anonymous people. The applicant had assured her representative that the internet posts were absolutely untrue. The applicant's representative pointed out that the applicant had been accompanied today by three members of staff from Golden Health and that they were prepared to answer questions. She also drew attention to the price list and the statement in the notices posted at the premises that no sexual services were on offer to clients.

Members of the Committee asked questions about the hours worked by staff and how new staff might be inducted. The applicant's legal adviser said that staff currently working at the premises had worked there for five to six months, so there was some continuity, although different staff worked on different days. On the day of the Police visit, the applicant had asked the interviewee, via social media, to arrive after 2.00pm, with her ID and certificates. The interviewee was there to observe, not to work and would later be interviewed by the manager. The Police visit had occurred before the manager arrived at the premises. Members asked whether procedures had been followed on that day as it appeared that the interviewee had started working at the premises without the proper ID. Members expressed their surprise that there appeared to be no procedures in force for inducting this, or any other, new member of staff. The applicant's representative stated that the applicant had learned from this experience but the applicant had made it clear that the person who had turned up at the premises on 22 July 2017 was there to be interviewed. The applicant stated that she had no contact information for the person who had turned up to be interviewed since their

arrangements had been made via social media and the person had since blocked the applicant.

A member of the Committee noted that, although the applicant's representative had stated that some of the clients at the premises were women, on the formal visits by the Police and Local Authority, all the clients were men and the masseuses were women. Although the applicant's representative had referred to the website comments as "fantasy", the Committee had not seen any evidence of female clients at the premises.

The Police representative confirmed that, on the formal visits to the premises, only one male had been seen receiving treatment. They had not seen any female clients on the premises. The Police had received information about the premises from an anonymous source and had acted upon it. It was unfair to suggest that the Police had "actively been seeking" information about the premises. They had simply found it as part of their search. He queried why staff at the premises had not used their real names. The applicant said in response that the Chinese name of the woman who Police had spoken to was hard to pronounce so she had chosen an alternative. The applicant's representative pointed out that the particular member of staff referred to had provided her real name to the Police on both occasions of their visit to the premises. The Police representative maintained that extra services were offered at the premises, as witnessed by several posts on the website and that there was a high turnover of staff at the premises. He highlighted the fact that, at the visit on 29 March 2017, a male client on the premises had stated that the premises was well known for offering sexual services, although he was there for a massage only.

Members asked the Police representative whether more could have been done by the Police on the visit to the premises on 22 July 2017 when they had identified a possible trafficking victim. The Police representative stated that they could have contacted Immigration Services, put her in touch with services supporting trafficked women and found a place of safety for the woman they had tried to communicate with at the premises.

The applicant was reminded by the Licensing Officer that, as a manager, she was required to supply the therapy registration certificates and ID for the four staff working at the premises to the Licensing Officer without delay. In response to a question from the Licensing Officer about when the notices of services provided (copied to members of the Committee) had been installed in the treatment rooms, the applicant stated that they had been installed about two years ago. However, when the Licensing Officer queried this, stating that she had never seen any notices in the treatment rooms on her visits, the applicant said that the notices had been installed one month ago. The Licensing Officer alerted the applicant to the fact that, when a website search of the Golden Health premises was carried out, viewers were directed to a suspect website in the Philippines. The applicant said that she had not been aware of this.

The applicant's legal adviser was invited to question two of the three staff from the premises who were in attendance with the applicant about their qualifications and work arrangements. The first, named Marina from Romania, stated that she had worked at the premises for seven months and provided Swedish massage, reiki and

acupressure. She had an NVQ 3. She was reminded that she had signed a contract with the premises and was asked whether she had offered sexual services to clients at the premises and whether she was aware of the consequences if she did offer such services. Marina confirmed that she had signed a contract and that she knew that she would be dismissed if she offered additional services. In response to a question from a member, Marina confirmed that clients were 50% female and 50% male, that clients had asked her for sexual services and that she had seen the notices in the treatment rooms making it clear that sexual services were not on offer to clients. The second worker, named Ruby, confirmed that she was a British citizen and that she had worked at Golden Health for five months. She had qualifications in deep heat massage, that she had signed a contract and that she was aware that she would be dismissed if she offered sexual services to clients. Ruby was wearing the work uniform supplied by the premises manager and showed this to the Committee members. In response to a question from a member of the Committee, both the Licensing Officer and the Police representative confirmed that they had never seen staff wearing this uniform on their visits to the premises. The applicant stated that staff had been wearing uniform for the past three months and that she had pointed out to the Police on their latest visit that staff were wearing a uniform. A member of the Committee asked the Police representative whether, on the visit to the premises on 11 November 2017, they had seen staff wearing uniform. The Police representative replied that there was a staff member present who was clearly not in uniform. The applicant stated that she had questioned this member of staff about her reasons for not wearing her uniform on that occasion and been told that the staff member was late on arriving at work and had not had time to change into her uniform. The applicant had reprimanded the member of staff and told her that she would be cutting £10 from her wages as a result of her not wearing her uniform.

In summary, the Police representative said that the Police had received information from an anonymous source to say that the premises known as Golden Health was operating as a brothel. Visits to the premises had taken place on 29 March, 7 November and 11 November 2017. At those visits, the Police had concerns about staff turnover and the lack of staff uniform. On each occasion, one male client had been present on the premises and one client had said that the premises was known for offering sexual services. On the visit of 22 July 2017, Police had spoken to a female and were concerned that she could provide no identification details, although she had said she was at the premises for the purposes of an interview with the manager. At a subsequent visit by Police on 11 November 2017, no staff were in uniform. Posts on the internet indicated that sexual services were offered at the premises, with the names of staff, services provided and prices, all included. The Police were also concerned that staff were not using their proper names. He maintained that there was sufficient information available for the Police to have made representations against the renewal of this premises licence.

In summary, the applicant's legal representative said that there was no evidence that Golden Health was operating as a brothel. On two Police visits to the premises, two male clients had been present and both had said that no sexual services were offered to them. It was hearsay that the premises was known for offering sexual services. Because it was not known who the persons were who had posted comments on the internet, it would be impossible to verify any of them. The

applicant had made two witness statements and the Committee had heard directly from two of her employees that sexual services were not offered at the premises. It was clear that more needed to be done by the applicant in the future in her role as manager of the premises. She had provided uniforms for her staff in the past three months, set up a staff rota, knew that she had to ensure that paper work was in order and needed to address how she inducted new employees. The applicant would like to work with the Police and the Licensing Team to ensure that the premises was compliant with all requirements. Furthermore, the applicant was open to visits and inspections and felt that these would offer her some protection against any rumours about the premises. The applicant felt that, if she were better able to manage the premises, she would be protecting herself.

RESOLVED:

That, subject to the standard licensing conditions and any additional conditions referred to in Appendix 5 on page 16 of the agenda, the application from Ms Yong Mei Wang for the renewal of a Special Treatment Licence in Islington, for the purposes of body massage only, in the premises known as Golden Health, 128 Junction Road, N19 5LB, be approved for a period of 12 months, with the following recommendation to the Licensing Team:

- that additional random visits be carried out at the premises to ensure that all conditions of the licence are being complied with, particularly with regard to staff management and induction of new employees.

Reason for decision

The Committee considered all of the written and oral evidence.

The Committee came to the conclusion that there was no direct evidence to prove that the premises was operating as a brothel. The information submitted by the Police from the internet had to be regarded as hearsay.

The Committee noted that the applicant and her representative acknowledged that improvements were needed at the premises, especially around management practice, specifically with regard to the induction of staff and compliance with registration of staff with the Licensing Team.

The Committee was satisfied that there were no legal grounds to refuse the application for renewal of the licence.

60 BREACH OF STREET TRADING CONDITIONS - FINSBURY SQUARE (Item B2)

Following introductions, the licensee's authorised assistant, Mr Peter Carter, explained that the licensee, Mrs Ann Carter, was recovering from an operation and had authorised him to act on her behalf. He presented the letter of authorisation from Mrs Carter to the Committee for information.

The Service Manager for Street Trading and Trading Standards introduced his report. Following complaints in November 2016 from the solicitors acting on behalf of the Montcalm Hotel, about the trading practices of the trader on a pitch immediately outside the front of the Hotel, Council officers had brought to the trader's attention various breaches of street trading conditions. In addition, he referred to a report prepared by the Council's Compliance Manager on the monitoring of activities at the street trading pitch located in Finsbury Square, EC2. This report was appendix 7 of the agenda. He would defer to his colleagues, the Street Trading Manager and the Compliance Manager, on points of detail. He stated that he was not representing the Montcalm Hotel. The breaches of the street trading conditions by the street trader were detailed in paragraph 3 of the report of the Service Director (Public Protection), specifically conditions 15 (relating to the size of the trading area), condition 16 (relating to approved receptacles), condition 22 (setting up times for trading), condition 56 (relating to commencement of trading) and condition 57 (relating to storage of receptacles). In addition, he suggested that condition 26, which stated that "The operation of your stall must not cause a nuisance to other traders or the general public" had been breached. He outlined the background to the case, which was all set out in the report of the Service Director (Public Protection). Since early 2017, Council officers had looked at options for relocating the trading pitch, but this had not proved fruitful. He noted that since the Council's letter of 1 November 2017, notifying the trader of this meeting, there had been no breach of the conditions, apart from that relating to the size of the receptacle. The licence for this pitch had been in existence for many years and the trading receptacle used to fit into the delineated pitch, but no longer did so. This had now been brought to the Council's attention. No reasons had been provided by the trader for the periods when the receptacle had not been removed from the pitch in accordance with street trading conditions. It was not the Council's wish to take any person's livelihood but, at the same time, traders were required to comply with street trading conditions attached to their licence.

Mr Peter Carter informed the Committee that he had used the same van for fourteen and a half years, prior to the establishment of the Montcalm Royal London House Hotel in October 2016 and he could not recall any complaints about the size of his trading van prior to October 2016. The Street Trading Manager pointed out that scattered sites, such as this, would not be checked on a regular basis unless there had been complaints.

In response to questions from members, the Street Trading Manager confirmed that, as the vehicle was licensed to be outside the Montcalm Hotel, even though parked there within designated trading times and not open for sales, this was not an issue for this particular trader: if hot liquid was poured down the nearby drain, this would not be a problem as long as the liquid was not oil: when the licence was first issued, there had been no issues with the trader selling to customers of the Hotel.

As a witness for the Street Trading Team, the solicitor acting for the Montcalm Hotel drew the Committee's attention to provisions of the London Local Authorities Act which related to revocation of street trading licences and variations to conditions to specify the relocation of a street trading pitch. On behalf of the Montcalm Hotel, he had pointed out that the street trader was not complying with the conditions of the

licence. He drew attention to evidence logs of breaches of street trading conditions, on pages 66- 104 of the agenda. He stated that the Hotel had been reasonable in their approach to the trader, but the breaches of condition could not be resolved in a practical way. He therefore supported the application for revocation of the trader's licence. The photos submitted as part of the Hotel's evidence showed that the trader's vehicle was oversized, both in length and height. The vehicle had been left on the pitch after trading hours had ceased, which was in breach of conditions and he maintained that the vehicle caused a nuisance, which was also a breach of conditions. All of these breaches in conditions affected the Hotel, with customers not being able to access taxis, taxis not being able to see the entrance to the Hotel, those with disabilities having to walk around the trader's vehicle with their luggage, odours from the van permeating through to the bar and restaurant of the Hotel. In addition, there were complaints on Tripadvisor from Hotel customers about the noise around the trading vehicle. Taxis were often double-parked around the trader's vehicle, which also reduced the ability of customers entering and exiting the Hotel. The occasions when the vehicle had been left for three to four weeks at a time outside the Hotel was a serious health and safety issue for the Hotel, as any emergency services' vehicles would be impeded. The trader's vehicle had been left outside the Hotel over the summer without any MOT. The trader's vehicle had had a real and detrimental impact on the Hotel. Referring to the written submission of Mrs Carter, he said that there was no attempt therein to address the breaches of conditions and that there had been much engagement with the trader both by the Hotel and the Street Trading Team

In response to questions from members, the Service Manager for Street Trading and Trading Standards confirmed that the removal of a trading vehicle or stall at the end of the trading day was very important to the Council. The monitoring report commissioned by the Council indicated that the trading vehicle outside the Montcalm Hotel had not been removed on occasions. The Council had not investigated any issues associated with nuisance caused by smoke, although the evidence submitted by the Hotel indicated that this was a problem. There had been no statutory nuisance in that there had been no formal complaints to the Council that customers of the Hotel were unable to sleep due to noise. The Council had invited the Hotel to monitor any noise caused by the trading vehicle but no reports were forthcoming. In response to a question about the location of the serving hatch if the trading vehicle had been relocated to Christopher Street, the Street Trading Manager said that the trader would be serving onto the street.

In response to a question from members, the Service Manager for Street Trading and Trading Standards stated that his report related to breaches identified by the Council only and that they had not relied on section 28(1) of the London Local Authorities Act. The Council had considered alternative pitches for the trader.

Mr Carter maintained that, contrary to the statement made by the solicitor for the Montcalm Hotel, the nature of Finsbury Square had not changed and there was no extra traffic in the vicinity. His wife had been licensed to trade at the pitch in Finsbury Square since 1995, on the basis that the pitch would not be causing any obstruction. Traffic had flowed freely in the Square. The complaints against his trading pitch had only arisen since the establishment of the Montcalm Hotel in the Square.

Mr Carter explained the reasons why his trading vehicle had been left on the pitch outside the Hotel after trading hours. The van had been vandalised twice and, due to stressful personal issues, including accompanying his wife to hospital appointments, he had not been able to concentrate on matters. He had not been trying to save money on parking fees for his trading vehicle, but had been attempting to find a regular parking space in the vicinity. However, he had been able to find a safe parking place for his trading vehicle and he stated that the trading vehicle would no longer be outside the Hotel outside of trading hours. In response to a question from members, Mr Carter said that he had asked the Metropolitan Police and City of London Police about the dimensions of his trading vehicle and they had said that, as long as the wheels of the vehicle were inside the delineated pitch space, he would not be breaking any laws. However, he acknowledged that there was an overhang from the vehicle, beyond the delineated space for trading. His was the only trading pitch in the vicinity. He felt sure that, if his vehicle was causing an obstruction, or was a danger to other traffic, Transport for London would have contacted him as there was a bus terminal near his pitch. He said that, together with Council officers, he had looked at possible alternative locations in the Square for his vehicle but his current position, on the north part of the Square, was the widest.

A witness for Mr Carter suggested that it would be wrong to try to relocate Mr and Mrs Carter to another trading pitch, at his stage of their lives. This was their only source of income, upon which they relied. He suggested that the Montcalm Hotel may wish to consider recompensing Mr and Mrs Carter to give up their licence to trade at this location in Finsbury Square.

The Service Manager for Street Trading and Trading Standards referred to the persistent breach of street trading conditions by the trader, detailed in paragraph 3.10 and the appendices to the report. The length of the vehicle was still an issue. Although this had not previously been an issue, the nature of the street had changed in the past year or so and it was now an issue. The height of the vehicle had not been addressed in the report since it was not an issue in this location.

RESOLVED:

That the application by the Council's Street Trading Team for the revocation of the street trading licence of Mrs Ann Carter, licensed trader on pitch 798 outside 20 Finsbury Square, be refused.

Reason for decision

The Committee considered all of the written and oral evidence.

The Committee noted that there was sufficient evidence of breaches of standard conditions of the licence, as set out in the report.

The Committee noted, in particular, the reasons given by Mr Carter for the breach of conditions 22, 56 and 57 (taken together), relating to the times that the trading vehicle was being left overnight and on weekends on the pitch. The Committee noted that, since November 2017, this breach had been resolved and Mr Carter had

given an assurance that the vehicle would be moved after trading. In relation to the breach of conditions 15 and 16, which the Committee considered to arise from the size of the vehicle, the Committee considered these to be technical breaches but accepted that, as the nature of the surrounding area had changed with the development of a Hotel in the immediate vicinity of the pitch, there might be some inconvenience to persons using the street. The Committee therefore recommended that officers arrange an immediate meeting with the trader to consider how best to resolve the technical breaches with regard to the dimensions of the trading vehicle.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded during consideration of the following items as the presence of members of the public and press would result in the disclosure of exempt information within the terms of Schedule 12A of the Local Government Act 1972, for the reasons indicated:

<u>Agenda item</u>	<u>Title</u>	<u>Reason for exemption</u>
E1	Application for the renewal of a special treatment licence - Golden Health, 128 Junction Road, London N19 5LB - exempt appendix	<u>Category 3</u> – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

61 APPLICATION FOR THE RENEWAL OF A SPECIAL TREATMENT LICENCE - GOLDEN HEALTH, 128 JUNCTION ROAD, LONDON N19 5LB - EXEMPT APPENDIX (Item E1)

RESOLVED

That the exempt appendix be noted.

The meeting ended at 8.00 pm

CHAIR