

LICENSING COMMITTEE – 24TH JANUARY 2017

Report of the Head of Regulatory Services

Part A

ITEM 5 REGULATION OF PERFORMANCES OF HYPNOTISM

Purpose of Report

To request the Licensing Committee to approve conditions for performances of hypnotism, and arrangements for the authorisation of those performances.

Recommendations

1. That the conditions to be attached to any authorisation issued by the Council for the staging of hypnotism as a means of entertainment, set out in Appendix 1, be approved.
2. That the Head of Regulatory Services be given delegated authority to authorise or reject applications regarding hypnotism, as a means of entertainment, and that the Council's Constitution be amended to reflect this.
3. That subject to 2. above, where an appeal is lodged against a decision to refuse an authorisation for staging hypnotism, a Licensing Sub-committee is set up to review the decision and that the Council's Constitution be amended to reflect this.

Reasons

1. To ensure public safety and protection through the regulation of certain activities as set out in the Hypnotism Act 1952.
2. To ensure that applications are dealt with in a timely manner.
3. To ensure that a suitable right of appeal is in place in line with Home Office guidance.

Policy Justification and Previous Decisions

This Policy is concerned with the application of powers exercised by Charnwood Borough Council in respect of regulating performances of hypnotism for entertainment purposes. The Hypnotism Act 1952, as amended, gives local authorities the power to authorise and impose conditions in respect of an exhibition, demonstration or performance of hypnotism on any person to which the authorisation relates.

Implementation Timetable including Future Decisions

The guidance and application are to come into immediate effect.

Report Implications

Risk Management

The risks associated with the decision the Licensing Committee is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
Failure to implement an application procedure and conditions for hypnotism would result in the Council not having a consistent, transparent and robust policy for visiting performers.	L	M	In order for the Council to properly carry out its legal duties, it should adopt standards for the performance of hypnotism under the Hypnotism Act 1952. The attached conditions are considered acceptable and are based on model conditions produced by the Home Office

Financial Implications

There is no ability under the Hypnotism Act 1952 for local authorities outside London to charge a fee. Any expenditure arising as a result of implementing these conditions will be met from existing budgets.

Background Papers:

Hypnotism Act 1952
Home Office Circular 39/1996

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Part B

Background

1. The Licensing Section at Charnwood Borough Council was contacted in November 2016, by a hypnotist, wishing to hold a demonstration for entertainment purposes of hypnotism within the Borough. This highlighted that no policy or conditions were in place.
2. In England and Wales, an act of hypnotism is not a licensable activity under the Licensing Act 2003. Under the Hypnotism Act 1952, no person shall give an exhibition, demonstration or performance of hypnotism on any person, or in connection with entertainment to which the public are admitted, whether on payment or otherwise at any place, unless the Licensing Authority has authorised that exhibition, demonstration or performance. Any such authorisation may be subject to conditions.
3. Hypnotism includes hypnotism, mesmerism and any similar act or process which produces or is intended to produce in any person, any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.
4. Prior to the Licensing Act 2003, Local Authorities were able to authorise that this option only applied in Scotland. Therefore, in England and Wales performances of hypnotism through conditions on a Public Entertainment Licence (PEL) but amendments to the Hypnotism Act 1952 by the Licensing Act 2003, meant conditions cannot be attached to a Licensing Act Premises Licence nor can a temporary event notice be used for the performance of hypnotism.

Effect of the Hypnotism Act 1952

5. The Hypnotism Act 1952 as amended makes it a criminal offence to conduct hypnotism for public entertainment unless the Licensing Authority has given authorisation.
6. Section 6 of the Act defines hypnotism as follows:

'Hypnotism' includes hypnotism, mesmerism and any similar act or process which produces or is intended to produce in any person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased but does not include hypnotism, mesmerism or any such similar act or process which is self-induced.
7. The Act imposes a restriction on hypnotising anyone under 18. There are saving provisions, which make legitimate scientific or medical hypnotism exempt from the need for licensing provided that it is not undertaken for public entertainment.
8. It is open for the Licensing Authority to impose such conditions as it may see fit on any hypnotism authorisation. However it should be noted that there is guidance in the form of Home Office Circular 39/1996, which although released prior to the changes under the Licensing Act 2003 remain current.

9. The proposed conditions attached at Appendix 1 to this report follow the model scheme and are intended to strike a balance between legitimate concerns for public safety and the ability for hypnotists to trade.
10. The proposed conditions include a requirement to admit authorised officers to allow for inspection. The Act only gives a right of entry to police officers - the proposed extension by condition to Licensing Officers and officers of the Fire Authority is considered a proportionate step in regulating the event.
11. Although delegation to officers can normally be only be granted by Full Council, section 2(3A) of the Hypnotism Act 1952 specifically states that the authorisation of hypnotism is a function to be carried out by the Licensing Committee. Therefore, it is the Licensing Committee (rather than Full Council) which is able to delegate these functions to officers.
12. All acts of hypnotism require authorisation from the Licensing Authority and Members are asked to consider delegating decisions for authorisations to the Head of Service in order to process requests for authorisations timely and efficiently. Where such requests are rejected or where the applicant is not happy with the authorisation there will be a right of appeal to the Licensing Committee. It is proposed that where an appeal against a decision is made a Licensing Sub-committee is set up to review the decision in a timely manner.

Assessment of Authorisation

13. When considering an application (form attached at Appendix 2) the Licensing Section will consider the following:
 - applicants' experience, with the form requesting information of three previous events and details of the local authority that has authorised those events, allowing the Licensing Section to check as to whether there were any issues with those events.
 - Membership of a relevant organisation.
 - Whether the applicant has been convicted of any offence in relation to hypnotism.
 - The safeguards in place during a performance, for example, the hypnotist remaining behind after the performance for 30 minutes, insurance.

Financial Implications

14. There is no ability under the Hypnotism Act 1952 for local authorities outside London to charge a fee. Any expenditure arising as a result of implementing these conditions will be met from existing budgets.



Charnwood Borough Council

Hypnotism Act 1952

Conditions for Hypnotism

Hypnotism as defined in the Hypnotism Act 1952

Hypnotism, mesmerism and any similar act or process which produces or is intended to produce in any person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased, but does not include hypnotism, mesmerism or any such similar act or process which is self induced.

Consents

Any exhibition, demonstration or performance of hypnotism (hereafter referred to as 'the performance') on any person requires the express written consent of the Licensing Authority and must comply with any attached conditions. The authority may consent to an act of hypnotism under the provisions of the Hypnotism Act 1952.

Applications

An application for consent shall be made in writing, signed by the applicant or his agent, and shall normally be made not less than 28 days in advance of the performance concerned. This period may be reduced in the case of the hypnotist who has performed at the same venue within the last three years without any problems occurring.

The application form is also required to be signed by the individual responsible for management of the venue, prior to submission, to ensure that the venue are aware of the necessary conditions.

The applicant must at the same time forward a copy of the application to the Police Licensing Section, Mansfield House, 74 Belgrave Gate, Leicester, LE1 3GG, or licensing@leicestershire.pnn.police.uk The Licensing Authority may also copy it to Leicestershire Fire Authority and Public Health if it considers this is necessary.

The application shall contain the following;

- the name (both real and stage, if different) and address of the person who will give the performance ('the hypnotist'), together with details of their last three performances (where and when).
- A statement as to whether, and if so giving full details thereof, if the hypnotist has been previously refused, or had withdrawn, a consent by any Licensing Authority or been convicted of an offence under the Hypnotism Act 1952 or of an offence involving the breach

of a condition regulating or prohibiting the giving of a performance of hypnotism on any person at any place of public amusement or public entertainment.

Conditions

The following conditions shall apply to any consent given:

Publicity

- a) No poster, advertisement or programme for the performance, which is likely to cause public offence, shall be displayed, sold or supplied by or on behalf of the licence holder either at the premises or elsewhere.
- b) Every poster, advertisement or programme for the performance, which is displayed, sold or supplied shall include, clearly and legibly the following statement.

‘Volunteers, who must be aged 18 or over, can refuse at any point to continue taking part in the performance.’

Insurance

The performance shall be covered to a reasonable level of public liability insurance. The hypnotist must provide evidence of this to the local authority, if requested; and it must be available for inspection at the performance.

Physical Arrangements

The means of access between the auditorium and the stage for participants shall be properly lit and free from obstruction.

A continuous white or yellow line shall be provided on the floor of any raised stage at a safe distance from the edge. This line shall run parallel with the edge of the stage for its whole width. The hypnotist shall inform all subjects that they must not cross the line while under hypnosis, unless specified to do so as part of the performance.

Treatment of Audience and Subjects

Before, starting the performance the hypnotist shall make a statement to the audience, in a serious manner, identifying those groups of people who should not volunteer to participate in it; explaining what volunteers might be asked to perform: informing the audience of the possible risks from embarrassment or anxiety; and emphasising that subjects may cease to participate at any time they wish. The following is a suggested statement, which can be amended as necessary to suit individual styles, as long as the overall message remains the same:

‘I shall be looking for volunteers aged 18 or over who are willing to be hypnotised and participate in the show. Anyone who comes forward should be prepared to take part in a range of entertaining hypnotic suggestions but can be assured that they will not be asked to do anything which is indecent, offensive or harmful. Volunteers need to be in a normal physical and mental health and I must ask that no one volunteers if they have a history of mental illness, or are under the influence of alcohol or other drugs or are pregnant.’

No form of coercion shall be used to persuade members of the audience to participate in the performance. In particular, hypnotists shall not use selection techniques that seek to identify and coerce onto stage the most suggestible members of the audience without their prior knowledge of what is intended. Any use of such selection techniques (e.g. asking members of the audience to clasp their hands together and asking those who cannot free them again to come onto the stage) should only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage.

If volunteers are to remain hypnotised during an interval in the performance, a reasonable number of attendants as agreed with the Licensing Authority shall be in attendance throughout to ensure their safety.

Prohibited Actions.

The performance shall be so conducted as not to cause offence to any person in the audience or any hypnotised subject.

The performance shall be so conducted as not to be likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:

- a) any suggestion involving the age regression of a subject (i.e. asking the subject to revert to an earlier age in their life; this does not prohibit the hypnotist from asking a subject to act as if they were a child, etc.)
- b) any suggestion that the subject has lost something (e.g. a body part) which, if it really occurred, could cause considerable distress.
- c) Any demonstration in which the subject is suspended between two supports (so called 'catalepsy').
- d) The consumption of any harmful or noxious substance.
- e) Any demonstration of the power of hypnosis to block pain (e.g. pushing a needle through the skin)

The performance shall not include the giving of hypnotherapy or any other form of treatment.

Completion

All hypnotised subjects shall remain in the presence of the hypnotist and in the room where the performance takes place until all hypnotic suggestions have been removed.

All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of all the subjects and the audience before the performance ends. All hypnotised subjects shall have the suggestions removed both individually and collectively and the hypnotists shall confirm with each of them they feel well and relaxed (the restriction on post-hypnotic suggestions does not prevent the hypnotist telling subjects that they will feel well and relaxed after the suggestions are removed).

The hypnotist shall remain available for at least 30 minutes after the show to help deal with any problems that might arise (such help may take the form of reassurance in the event of headaches

or giddiness but this condition does not imply that the hypnotist is an appropriate person to treat anyone who is unwell.)

Authorised access

Where:

- a) a constable; or
- b) an authorised officer of the Licensing Authority; or
- c) an authorised officer of the Fire Authority

has reason to believe that a performance is being, or is about to be, given he may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.



CHARNWOOD BOROUGH COUNCIL

HYPNOTISM ACT 1952

**APPLICATION FOR CONSENT RELATING TO PERFORMANCES
OF STAGE HYPNOTISM**

PLEASE NOTE THAT THIS FORM MUST BE FULLY COMPLETED TO THE COUNCIL'S SATISFACTION. INCOMPLETE OR OTHERWISE UNSATISFACTORY DETAILS WILL RENDER THE APPLICATION VOID.

Details of Venue	
Date(s)/Time of Proposed Performance(s):	
Venue/Address:	
Venue Telephone No:	
Description of Act:	
Details of Applicant	
Full (Real) Name:	
Address:	
Telephone:	
Email Address:	
Stage Name (if different):	
Business/Contact Address:	
Telephone(if different to above):	
Are you a Member of a Professional Body Representing Stage Hypnotists?	YES/NO

If you are a Member of such a body, please state which:	
Name:	
Address:	
Contact Name/Tel No/Email:	
Membership No./Status, e.g. Full/ Associate etc:	
Date of Joining:	
STATE THE FOLLOWING DETAILS IN RELATION TO THREE RECENT PERFORMANCES OF STAGE HYPNOTISM WHERE CONSENT HAS BEEN GIVEN BY LOCAL AUTHORITIES:	
1.Date:	
Venue Name:	
Venue Address:	
Description of Act	
Local Authority:	
2.Date;	
Venue Name:	
Venue Address:	
Description of Act;	
Local Authority:	

3.Date:	
Venue Name:	
Venue Address:	
Description of Act;	
Local Authority:	
Insurance Details	
Do you have Public Liability Insurance Cover?	YES/NO
Insurance Company:	
Address:	
Policy No:	Amount of Cover:
Details of Performance	
If the performance includes hypnotising members of the public, will minders stay with hypnotised subjects during the show, including the interval?	YES/NO
Is the hypnotist providing a minder for each hypnotised subject?	YES/NO
If the answer to the above is no, how many hypnotised subjects will a minder supervise?	
Has the hypnotist ever been refused or had withdrawn a consent for hypnosis by any Licensing Authority:	YES/NO
If you have answered yes, please attach details:	

Has the hypnotist ever been convicted under the Hypnotism Act 1952 or of any offence relating to Stage Hypnotism?	YES/NO
If you have answered yes, please give details:	
Has the hypnotist ever been convicted of an offence involving the breach of a condition regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism?	
If answered yes, please give details:	
Has the hypnotist ever been barred from the Federation of Ethical Stage Hypnotists or the European Guild of Professional Stage Hypnotists or any other similar body?	
If the answer to the above is yes, please give details:	

DECLARATION

I / we have read and understood the Council's Authorisation conditions and agree to comply with them at all times.

I have enclosed references from previous premises or a suitable reference from a recognised body.

I/we confirm that we have, read and understood a copy of the Council's Conditions for Hypnotism.

I/ we hereby certify that the above details are true and that I agree to conform to the Council's requirements relating to Stage Hypnotism.

Signature (Hypnotist or Agent).....Print Name

Date

Signature (individual responsible for management of the venue.) Print Name

Date

Please return the completed form to: Charnwood Borough Council, Licensing, Southfield Road, Loughborough, Leicestershire, LE11 2TX.