

Licensing Committee

Agenda

Date: Monday, 5th July, 2010
Time: 2.00 pm
Venue: Committee Suite 1, 2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide three clear working days' notice, in writing, in order for an informed answer to be given.

4. **Minutes of Previous Meeting** (Pages 1 - 2)

To approve the minutes of the meeting held on 29 March 2010.

5. **Minutes of Licensing Sub-Committees** (Pages 3 - 18)

To receive the minutes of the Licensing Sub-Committee meetings held on 17 March 2010, 29 April 2010, 5 May 2010, 10 May 2010 and 17 June 2010.

6. **Regulation of Hypnotism - Hypnotism Act 1952** (Pages 19 - 30)

To consider proposed conditions to attach to authorisations granted under the provisions of the Hypnotism Act 1952 and a timeframe for determination of applications.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Committee**
held on Monday, 29th March, 2010 at The Capesthorne Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor P Whiteley (Chairman)
Councillor D Bebbington (Vice-Chairman)

Councillors Rhoda Bailey, G Baxendale, H Davenport, S Davies, B Dykes,
L Gilbert, J Goddard, M Parsons, A Ranfield and C Tomlinson

OFFICERS PRESENT

Mrs K Khan (Licensing Solicitor) and Mr P Simester (Licensing Officer)

82 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors T Beard, Mrs E N Gilliland and M Hardy.

83 DECLARATIONS OF INTEREST

None.

84 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules 11 and 35, a representative from the Taxi Trade indicated that he wished to address the Committee in relation to purchasing a Hybrid vehicle which he wanted to licence but which currently did not meet the terms and conditions of the Licensing Service in terms of the vehicles length.

RESOLVED

It was agreed that his comments would be noted and relayed to the appropriate Licensing Officer for consideration.

85 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes be approved as a correct record and signed by the Chairman.

86 MINUTES OF LICENSING SUB-COMMITTEES

RESOLVED

That the minutes of the Licensing Sub Committee meetings held on 28 January 2010, 2 February 2010 and 8 February 2010 be approved as correct records.

87 FEES AND CHARGES - GAMBLING ACT 2005

The Committee considered a report detailing information on proposed fees and charges in relation to the Gambling Act 2005 for the 2010/11 financial year.

The Officer reported an amendment to Appendix One in relation to the proposed annual fee for Betting Premises (excluding tracks) which had originally been included in the report at £615.00. The amendment reduced this to £600.00 as this is the maximum fee which may be charged in accordance with the relevant secondary legislation.

A suggestion was made that the charges should be increased, however Legal advice was provided indicating that section 212 of the Gambling Act 2005 prescribes that fee levels should equate as nearly as possible to the costs of providing the service.

Further questions were asked by Members in relation to the spread of fees over the original three Boroughs and how the fees compared to Cheshire West and Chester Council.

RESOLVED

That the proposed fees as set out in Appendix One of the report be approved subject to the amendment as outlined above.

The meeting commenced at 2.00 pm and concluded at 2.25 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Wednesday, 17th March, 2010 at The Minor Hall, Victoria Community
Centre, West Street, Crewe, Cheshire CW1 2PZ

PRESENT

Councillor P Whiteley (Chairman)

Councillors D Bebbington and S Davies

OFFICERS IN ATTENDANCE

Ms M Hopley, Environmental Health Officer
Miss C Kerr, Licensing Officer
Mrs K Khan, Solicitor
Mrs J Zientek, Democratic Services Officer

71 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

72 DECLARATIONS OF INTEREST

Councillors D Bebbington and S Davies declared a personal interest in respect of the matter under consideration, on the grounds that they knew one of the local residents.

73 APPLICATION FOR A PREMISES LICENCE - LAND AT BRIDGEMERE LANE, HUNSTERSON

The Sub-Committee considered a report regarding an application for a Premises Licence under section 17 of the Licensing Act 2003.

Sub-committee members also considered two additional letters from local residents, which had been deemed to be relevant representations following the publication of the agenda for the meeting, a revised site location plan showing the correct location of the land in question, which had been marked incorrectly on the map attached to the report, and photographs of the access point and the lane.

An Environmental Health Officer, local residents, representatives of the applicant, a representative from Doddington Parish Council and the three Ward Members attended the hearing and made representations with respect to the application.

[Note: The meeting was adjourned from 11.20 am to 11.25 am for a short break.]

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of further interested parties, the Environmental Health Service and Cheshire Constabulary

the following course of action had been agreed:

RESOLVED – That the application be REFUSED for the following reasons:

- (a) The operating schedule as drafted is wholly inadequate and the site in question is inappropriate for the proposed use.
- (b) There are no conditions which the Sub-Committee could impose which would enable the application to be granted without causing harm to the licensing objectives.

[Note: The Chairman read in full the Decision Notice, including the reasons for refusal, and requested the Borough Solicitor to send a copy of the Notice to the applicant and objectors.]

The meeting commenced at 9.30 am and concluded at 1.20 pm

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Thursday, 29th April, 2010 at Middlewich Civic Hall, Civic Way,
Middlewich CW10 9AS

PRESENT

Councillor P Whiteley (Chairman)

Councillors D Bebbington and M Hardy

OFFICERS IN ATTENDANCE

Ms S Edge, Environmental Health Officer
Ms M Hopley, Environmental Health Officer
Mrs K Khan, Solicitor
Mrs V Robson, Licensing Officer
Mrs J Zientek, Democratic Services Officer

74 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

75 DECLARATIONS OF INTEREST

There were no declarations of interest.

76 THE CHESHIRE VIEW, MOW COP

The Sub-Committee considered a report regarding an application to vary the premises licence for The Cheshire View, Mow Cop under section 34 of the Licensing Act 2003.

An Environmental Health Officer, a representative of local residents, the applicant and the applicant's representative attended the hearing and made representations with respect to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)

- All the evidence, including the oral representations made at the meeting and the written representations of further interested parties, the police and the Environmental Health Service

the following course of action had been agreed:

RESOLVED – That the application to vary the Premises Licence for The Cheshire View, Mow Cop be granted as follows:

- (a) that the operating schedule be amended by the imposition of the following terminal hours:

Regulated entertainment (with the exception of live music) and sale of alcohol

Monday to Saturday	11.00 to 02.00
Sunday	12.00 to 02.00

Live music

Monday to Wednesday	11.00 to 23.00
Thursday to Saturday	11.00 to 01.30
Sunday	12.00 to 23.30

Late night refreshment

Monday to Sunday	23.00 to 02.00
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Hours of opening

Monday to Saturday	11.00 to 02.30
Sunday	12.00 to 02.30

- (b) that the following agreed conditions be imposed:

1. There shall be no entry or re-entry allowed into the premises after midnight each night, until after 11.00 hours the following day, unless as a consequence of observing the ban on smoking in public places;
2. The proof of age scheme 'Challenge 25' will be operated for all sales of alcohol and the Premises Licence Holder shall ensure all people making sales at the premises are to be trained in its operation. This requires that where the purchaser, or a person intended to consume the alcohol, appears to be under 25 years of age the person making the sale must require photographic evidence that they are aged at least 18 years of age. This evidence shall be only a passport, photographic driving licence or 'PASS' approved proof of age card. Where a purchaser, or person intending to consume the alcohol, appears to be under 25 years of age a sale of alcohol shall not be made unless such evidence is produced.

3. Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby residents.
 4. Refuse such as bottles shall be disposed of from the premises at a time (i.e. between 08.00 to 20.00) when it is not likely to cause a disturbance to residents in the vicinity of the premises.
 5. There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly.
 6. During those hours which are beyond those authorised by the original Premises Licence, whilst regulated entertainment is taking place all windows and doors shall remain closed [except for access and egress].
- (c) that the variation to condition 5 of Annex 2 be approved as requested, thereby allowing children accompanied by an adult to remain on the premises until 22.00.

77 THE KING'S ARMS, QUEEN STREET, MIDDLEWICH

The Sub-Committee considered a report regarding an application for the review of a premises licence under Section 51 of the Licensing Act 2003 in respect of the King's Arms, Queen Street, Middlewich.

An Environmental Health Officer, a local resident, representatives of the review applicant, the premises licence holder and representatives of the premises licence holder attended the hearing and made representations with respect to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representations of a local resident, the Environmental Health Service and the Cheshire Fire Authority

the following course of action had been agreed:

RESOLVED – That the conditions of the licence be modified to include the following conditions:

1. There shall be two SIA registered door supervisors on duty from 8pm until the premises close to the public every Friday and Saturday, on the Sunday and Monday of all Bank Holiday Mondays and the Sunday of Middlewich Boat Festival, the Thursday of Easter Weekend, on Christmas Eve, on Boxing Day and on New Years Eve.
2. A register of SIA staff working at the premises shall be maintained, kept at the premises and made available for examination upon request to a constable or an employee of the Police Authority, Local Authority or the SIA. It will record details of all SIA registered staff working at the premises and it will include for each day they work:
(i) the full name of each door supervisor; (ii) the full SIA badge number of each door supervisor; (iii) the time they arrive at and leave the premises; (iv) their home address; and (v) the person holding an SIA licence by whom they are employed
3. A CCTV system will be installed at the premises to the satisfaction of the Police Licensing Officer and it must record at all times the premises are open to the public. Unedited images must be retained for at least 14 days and copies made freely available upon request to a constable or an employee of the Police Authority, Local Authority or the SIA.
4. At all times the premises are open to the public there will be a member of staff on duty who is competent to operate the CCTV system and to provide any copies requested.
5. The proof of age scheme 'Challenge 25' will be operated for all sales of alcohol and a record kept of all age related refusals to sell or age related challenges. The only means of identification which may be accepted are a photo card driving licence, a passport or a recognised proof of age card which includes the 'PASS' hologram on it.
6. The premises licence holder shall take all reasonable steps to ensure that no open vessel may be taken out of the premises onto any public footway or adopted highway.
7. The Designated Premises Supervisor, or another responsible member of staff, will regularly attend Pubwatch meetings and actively support its aims.
8. A comprehensive and detailed register will be maintained and kept at the premises of all incidents of crime or disorder which occur either at or in the immediate environs of the premises and which occur whilst the premises are open to the public.
9. Any member of staff not already the holder of a personal licence must receive training in the operation of the proof of age scheme

'Challenge 25' responsible alcohol retailing and receive a copy of Part 'A' of the premises licence which includes all the conditions before they are authorised to sell alcohol. The same matters must be covered again at intervals of not more than six months by refresher training to all staff members who do not hold a personal licence. A detailed individual training record must be maintained for every member of staff, be kept at the premises, be retained for at least 12 months after they leave and be made available for inspection upon request to a constable or an employee of the Police or Local Authority.

The meeting commenced at 10.00 am and concluded at 5.50 pm

Councillor P Whiteley (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Wednesday, 5th May, 2010 at The Silk Room - Town Hall,
Macclesfield SK10 1DX

PRESENT

Councillor P Whiteley (Chairman)

Councillors H Davenport and L Gilbert

OFFICERS IN ATTENDANCE

Mrs N Cadman (Licensing Officer) and Mrs K Khan (Licensing Solicitor)

78 APPOINTMENT OF CHAIRMAN

RESOLVED – That Councillor P Whiteley be appointed Chairman.

79 DECLARATIONS OF INTEREST

There were no declarations of interest.

80 APPLICATION FOR A PREMISES LICENCE-ALLEN'S FRIED CHICKEN, 1-3 BROOK STREET, MACCLESFIELD

The Sub-Committee considered a report regarding an application from Mr Iqbal of Allen's Fried Chicken, 1-3 Brook Street, Macclesfield for a Premises Licence under section 17 of the Licensing Act 2003.

An Environmental Health Officer, the applicant and the applicant's representative attended the hearing and made representations with respect to the application.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that, after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003
- Cheshire East Borough Council's Statement of Licensing Policy
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm)
- All the evidence, including the oral representations made at the meeting and the written representation from the Environmental Health Service

the following course of action had been agreed:

RESOLVED – That the application to grant a Premises Licence for Allen's Fried Chicken be granted as follows:

Monday to Sunday 23.00 to 24.00

(The applicant was reminded of the right to appeal the decision to the Magistrates' Court within 21 days).

The meeting commenced at 9.30 am and concluded at 10.35 am

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Sub-Committee**
held on Monday, 10th May, 2010 in Committee Suite 1 & 2, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)

Councillors Rhoda Bailey, T Beard, L Gilbert and P Whiteley

IN ATTENDANCE:

Kate Khan	Solicitor	
Jim Hopper	Licensing Officer	(Minute Nos. 84, 85 and 86)
Peter Simester	Licensing Officer	(Minute No. 87)
Carol Jones	Committee Officer	

81 APPOINTMENT OF CHAIRMAN

RESOLVED

That Councillor P Whiteley be appointed Chairman for the meeting.

82 DECLARATIONS OF INTEREST

No declarations of interest were made.

83 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED –

That the press and public be excluded from the meeting during consideration of the following item, pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and the public interest would not be served in publishing this information.

84 10/03 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a "fit and proper" person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application.

At this point in the proceedings, the applicant and the Licensing Officer withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the application.

The applicant and the Licensing Officer re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED –

That the application be refused on the grounds that the applicant is not a “fit and proper” person to hold a Hackney Carriage/Private Hire Driver's Licence.

85 10/04 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a “fit and proper” person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application. He tabled a written statement which was read to the meeting.

At this point in the proceedings, the applicant and the Licensing Officer withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the application.

The applicant and the Licensing Officer re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED –

That the applicant is a “fit and proper” person to hold a Hackney Carriage/Private Hire driver's Licence and that the application be granted, subject to the successful completion of the Council's theory test.

86 10/05 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a "fit and proper" person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application. He tabled a written statement which was read to the meeting.

At this point in the proceedings, the applicant and the Licensing Officer withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the application.

The applicant and the Licensing Officer re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED –

- (a) That the applicant is a "fit and proper" person to hold a Hackney Carriage/Private Hire Driver's Licence;
- (b) That the application be granted for a probationary period of 12 months to enable the applicant to demonstrate that he continued to be a "fit and proper" person to hold the licence; and
- (c) That granting of the licence be subject to the successful completion of the Council's theory test.

87 10/06 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a "fit and proper" person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the applicant and the Licensing Officer withdrew from the meeting whilst the Sub-Committee reached its decision.

The applicant and the Licensing Officer re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED –

That the application for a Hackney Carriage/Private Hire Driver's Licence be refused on the grounds that the applicant is not a "fit and proper" person to hold the licence.

The meeting commenced at 2.30 pm and concluded at 4.55 pm

Councillor Paul Whiteley (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **General Licensing Sub-Committee**
held on Thursday, 17th June, 2010 at Fred Flint Room, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor P Whiteley (Chairman)

Councillors Rhoda Bailey, D Bebbington, B Dykes and J Goddard

OFFICERS PRESENT

Mrs K Khan (Licensing Solicitor), Mrs A Jackson (Licensing Enforcement Officer) and V Robson (Licensing Officer)

1 APPOINTMENT OF CHAIRMAN

RESOLVED

It was moved and seconded that Councillor P P Whiteley be appointed as Chairman for the meeting.

2 APOLOGIES FOR ABSENCE

None.

3 DECLARATIONS OF INTEREST

None.

4 EXCLUSION OF THE PUBLIC AND PRESS

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the public and press from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information in accordance with paragraphs 1 and 2, pursuant to part 1 of Schedule 12 (A) of the Act.

RESOLVED

That the Exclusion Resolution be moved as printed.

5 10-11/01 APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Sub-Committee considered a report regarding an application for a Hackney Carriage/Private Hire Driver's Licence.

The Sub-Committee's attention was drawn to the Council's Statement of Policy about Relevant Convictions and Members were invited to consider if the applicant was a "fit and proper" person to be granted a licence.

The applicant was in attendance throughout the hearing and spoke in support of his application.

At this point in the proceedings, the applicant and the Licensing Officer withdrew from the meeting whilst the Sub-Committee reached its decision.

Following full consideration of the application, taking into account all the evidence, including written and oral representations, the Sub-Committee determined the application.

The applicant and the Licensing Officer re-joined the meeting to be informed of the Sub-Committee's decision.

RESOLVED –

That the application be refused on the grounds that the applicant is not a "fit and proper" person to hold a Hackney Carriage/Private Hire Driver's Licence.

The meeting commenced at 9.30 am and concluded at 10.22 am

Councillor P Whiteley (Chairman)

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: 5th July 2010
Report of: Licensing Manager
Subject/Title: Regulation of hypnotism – Hypnotism Act 1952

1.0 Report Summary

- 1.1 The report provides information in relation to the Hypnotism Act 1952 together with proposed conditions to attach to authorisations granted under the provisions of the Act.

2.0 Recommendations

- 2.1 The Licensing Committee is requested to:
- 2.1.1 authorise the Licensing Manager to carry out a consultation exercise, as set out within the report, in relation to the draft conditions set out within Appendix A;
- 2.1.2 in the event either that no consultation responses are received or that the responses received do not suggest amendments to the conditions, to approve the conditions as set out within Appendix A; and
- 2.1.3 approve the period of twenty-eight days from receipt of a complete application as the period within which an application must be determined and to note the position in relation to 'tacit authorisation.'

3.0 Reasons for Recommendations

- 3.1 The Council has the power to authorise performances of hypnotism within its area, however the Council has yet not adopted conditions which will apply to such authorisations. The recommendation is requested in order to ensure that the Council has a set of conditions in place which will be of assistance to prospective applicants and will ensure consistency of decision-making.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 The report proposes the adoption of standard conditions which would attach to authorisations granted by the Council.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

- 7.1 None.

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

- 8.1 There is no statutory provision for a fee to be charged in relation to the grant of an authorisation by a local authority outside London under the Hypnotism Act 1952.

9.0 Legal Implications (Authorised by the Borough Solicitor)

- 9.1 Sub-section 2(1) of the Hypnotism Act 1952 provides that “no person shall give an exhibition, demonstration or performance of hypnotism on any living person at or in connection with an entertainment to which the public are admitted, whether on payment or otherwise, at any place unless – (a) the controlling authority have authorised that exhibition, demonstration or performance under this section.” ‘Controlling authority’ for the purposes of section 2 means the licensing authority (within the meaning in the Licensing Act 2003) in whose area the place in question is situated.
- 9.2 Sub-section 2(2) states that any authorisation under section 2 may be made “subject to any conditions.”
- 9.3 ‘Hypnotism’ is defined by section 6 of the Act as including “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 be increased but does not include hypnotism, mesmerism or any such similar act or process which is self-induced.”
- 9.4 It is an offence to give any exhibition, demonstration or performance of hypnotism in contravention of section 2 or of any conditions attached to an authorisation granted under the section.

10.0 Risk Management

- 10.1 The proposals within the report seek to ensure that the Council has a formalised set of conditions in place which will ensure consistency.

11.0 Background and Options

- 11.1 Prior to the introduction of the Licensing Act 2003, local authorities were able to authorise hypnotism performances by way of conditions attached to public entertainments licences (issued under the provisions of the Local Government (Miscellaneous Provisions) Act 1982). Amendments to the Hypnotism Act 1952 by Schedule 6 to the Licensing Act 2003 mean that this option now only applies in Scotland.
- 11.2 In England and Wales, an act of hypnotism is not a licensable activity under the Licensing Act 2003. Authorities in England and Wales can therefore only give permission for a display/performance of hypnotism under the provisions of the Hypnotism Act 1952 (as amended).
- 11.3 As set out within the legal implications at paragraph 9 above, the Hypnotism Act 1952 (as amended) makes it a criminal offence to conduct hypnotism for public entertainment unless a licence has been given by the Licensing Authority. The Act also 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.
- 11.4 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 remains current. The proposed conditions attached as Appendix A to this report follow the model scheme within the Circular and are intended to strike a balance between legitimate concerns for public safety and the ability for hypnotists to trade.
- 11.5 Section 4 of the Act gives a right of entry to police officers in connection with suspected contravention of the Act. The proposed conditions include a requirement to admit authorised officers of the Licensing Authority to allow for inspection of a premises where hypnotism is being carried out under an authorisation granted by that Licensing Authority. It is suggested that this is a proportionate step in order to ensure compliance with an authorisation.
- 11.6 It is suggested that the draft conditions shall be subject to a consultation exercise running over a period of twelve weeks which will include consultation with Cheshire Constabulary, the Health and Safety Section of Cheshire East Borough Council, the Federation of Ethical Stage Hypnotists, Equity and a prospective applicant who has made contact with the Council. In addition, the details of the consultation will be included on the Council's website.
- 11.7 The issue of an authorisation under the Hypnotism Act 1952 is understood to be one of the 'formalities' (i.e. authorisations/ licences/ certificates/ registrations) which falls within the scope of the EU Services Directive. As a result, the Council is required to make prescribed information available to prospective applicants, including the timescales within which an application will be determined. Where no statutory timescale exists, local authorities have the

discretion to determine a reasonable and appropriate timescale. Where a timescale is exceeded then an application would be deemed acceptable and 'tacit authorisation' given. In accordance with the model conditions annexed to Home Office Circular 39/1996, it is proposed that an application must be made no less than 28 days before the date of the performance. This period is required so that the Licensing Section may have sufficient time to consult Cheshire Constabulary on an application. Whilst an application may be made with a greater period of notice, it is suggested that the period for determination of an application will be twenty-eight days (commencing on receipt of a valid application); therefore if an application was not determined within this period then, subject to the ability to extend the period for a limited period if the applicant is notified of this prior to the expiry date, the application would be deemed granted. The alternative would be for the Licensing Authority to determine that it is appropriate for different arrangements to be put in place in relation to this type of authorisation; any such decision would need to be based on overriding reasons relating to the public interest, including the legitimate interests of third parties.

- 11.7 The power to licence performances of hypnotism is delegated within paragraph 25.2.7 of the Constitution to the Head of Safer and Stronger Communities. This function has subsequently been delegated by the Head of Safer and Stronger Communities to the Licensing Manager.

12.0 Overview of Year One and Term One Issues

- 12.1 Not applicable.

13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Kate Khan
Designation: Legal Services
Tel No: (01270) 85847
Email: kate.khan@cheshireeast.gov.uk

APPENDIX A

HYPNOTISM ACT 1952

CONDITIONS REGULATING EXHIBITION, DEMONSTRATION OR PERFORMANCE OF HYPNOTISM

1. Applications

The Licensing Authority to be informed in writing twenty-eight (28) days in advance of the performance of:

- a. The name (both real and stage, if different) and address of the person who will give the performance (hereafter referred to as the 'hypnotist'), together with details of their last three performances (when and where).
- b. A statement as to whether, and if so giving full details thereof, 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 theatre or other place of public amusement or public entertainment.

2. 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'.

3. Insurance

- a. The performance shall be covered by public liability insurance at a level which must be approved by the Licensing Authority. The hypnotist must provide evidence of this to the local authority if requested and it must be available for inspection at the performance.

4. Physical arrangements

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

- b. 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 whilst under hypnosis, unless specifically told to do so as part of the performance.

5. Treatment of the audience and subjects

- a. Before stating 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 might be amended as necessary to suit individual styles as long as the overall message remains the same:

“I shall be looking for volunteers aged over 18 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 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”.

- b. 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 which seek to identify and coerce out on 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.
- c. 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.

6. Prohibited actions

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

- b. The performance shall be so conducted as not likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:
 - i. 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 subjects to act as if they were a child, etc.);
 - ii. any suggestion that the subject has lost something (e.g. a body part) which, if it really occurred, could cause considerable distress;
 - iii. any demonstration in which the subject is suspended between supports (so called 'catalepsy');
 - iv. the consumption of any harmful or noxious substance;
 - v. any demonstration of the power of hypnosis to block pain (e.g. pushing a needle through the skin).
- c. The performance shall not include giving hypnotherapy or any other form of treatment.

7. Completion

- a. All hypnotised subjects shall remain in the presence of the hypnotist and in the room or place in which the performance takes place until all hypnotic suggestions have been removed.
- b. All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subjects and the audience before the performance ends. All hypnotised subjects shall have the suggestions removed both individually and collectively and the hypnotist confirm with each of them that they feel well and relaxed (the restriction on post-hypnotic suggestions does not prevent the hypnotist from telling subjects that they will feel well and relaxed after the suggestions are removed).
- c. The hypnotist shall remain available for at least 30 minutes after the show to help in dealing with any problems which might arise. (Such help might take the form of reassurance in the event of headaches or giddiness but this condition does not imply that the hypnotist is an inappropriate person to treat anyone who is otherwise unwell).

8. Authorised access

- a. Where:
 - i. a police officer; or
 - ii. an authorised officer of the Licensing Authority;has reason to believe that a performance is being, or is about to be, given, he/she may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.

APPENDIX B

Application for consent to conduct an exhibition, demonstration or performance of hypnotism

(must be completed by the applicant)

1	Personal/Business details		
1.1	Name		
1.2	Stage name		
1.3	Home address		
1.4	Date of Birth		
1.5	Place of Birth		
1.6	Email address		
1.7	Position/job title		
1.8	Business name		
1.9	Registered (or other) business address		
1.10	Contact telephone number(s)		
1.11	Home country		
1.12	Commercial register on which registered		
1.13	Registration number		
1.14	VAT number		
1.15	Legal status (e.g. limited company)		

2	Membership of a professional organisation		
2.1	Are you a member of a recognised professional organisation?	Yes / No	If no, go to 4.1
	If yes, please provide details of the organisation		
2.2	Name of organisation		
2.3	Address of organisation		
2.4	Telephone number		
2.5	Membership number		
2.6	Are you a member of any other professional organisations? (If yes, please provide details of the organisation)	Yes / No	
2.7	Name of organisation		
2.8	Address of organisation		
2.9	Telephone number		
2.10	Membership number		

3	Public liability insurance		
3.1	Do you have public liability insurance?	Yes / No	If no, go to 5.1
	If yes, please provide details of the policy		
3.2	Insurance company		
3.3	Policy number		
3.4	Period of cover		
3.5	Extent of cover		

4	Proposed venue for the performance(s)	
4.1	Name of venue	
4.2	Address of venue	
4.3	Telephone number	
4.4	Venue manager's name	
4.5	Maximum number of people to be admitted to the venue for the performance	

5	Planned performance(s)	
5.1	Date(s) of planned performances	
5.2	Time(s) of planned performances on those dates	
5.3	Detailed description of the planned performances	

6	Last three performances		
	Please complete the following details about each of the last three performances given by the hypnotist		
6.1	Name of venue		
6.2	Address of venue		
6.3	Telephone number		
6.4	Venue manager's name		
6.5	Local authority which granted permission		
6.6	Date of performance		
6.7	Detailed description of the performance		
6.8	Other performance?	Yes / No	If yes, 2 sections follow next page
	Please complete the following details about each of the last three performances given by the hypnotist		
6.9	Name of venue		
6.10	Address of venue		
6.11	Telephone number		
6.12	Venue manager's name		
6.13	Local authority which granted permission		
6.14	Date of performance		
6.15	Detailed description of the performance		
	Please complete the following details about each of the last three performances given by the hypnotist		

6	Last three performances	
6.16	Name of venue	
6.17	Address of venue	
6.18	Telephone number	
6.19	Venue manager's name	
6.20	Local authority which granted permission	
6.21	Date of performance	
6.22	Detailed description of the performance	

7	Previous refusals and convictions		
7.1	Have you ever been refused or had consent for hypnotism withdrawn by any licensing authority?	Yes / No	
7.2	Have you ever been barred from the Federation of Ethical Stage Hypnotists or European Guild of Professional Stage Hypnotists or any similar body?	Yes/No	
7.3	Have you ever been convicted of an offence under the Hypnotism Act 1952?	Yes/No	
7.4	Have you ever been convicted of an offence involving the breach of a condition regulating or prohibiting a performance of hypnotism?	Yes/No	
7.5	If yes to any of these questions, please provide full details (please continue on a separate page if necessary)		

8	Additional details	
8.1	Please provide any additional information relevant to the application (please continue on a separate page if necessary)	

9	Declaration and signature	
	I declare the above information to be true to the best of my belief and that knowingly making a false statement (s), may lead to delay, the withdrawal of an authorisation or legal action.	
	Signature	
	Date	

We will use the information you give in this form and in any supporting documentation you send us, to process your application. We may check information you have provided, or information about you that someone else has provided with other information held by us. We may also get information about you from certain third parties, or give them information to:

- make sure the information is accurate
- prevent or detect crime, and
- protect public funds

These third parties include Government departments, other departments of the Council and other local authorities. We will not give information about you to anyone else unless the law allow us to.

	Congleton (01270) 537112	Crewe & Nantwich (01270) 537114	Macclesfield (01625) 504206
LICENSING AUTHORITY Cheshire East Borough Council	Licensing Section Municipal Buildings Earle Street, Crewe CW1 2BJ	Licensing Section Municipal Buildings Earle Street, Crewe CW1 2BJ	Licensing Section Macclesfield Town Hall Market Place, Macclesfield, Cheshire SK10 1DX

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