

# **Licensing Committee**

## **Agenda**

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**Date:** Monday, 8th November, 2010  
**Time:** 10.30 am  
**Venue:** Meeting Room B, Macclesfield Library, Jordangate,  
Macclesfield, Cheshire SK10 1EE

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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 - 6)

To approve the minutes of the meeting held on 13 September 2010.

5. **Minutes of Licensing Sub-Committees** (Pages 7 - 14)

To receive the minutes of the Licensing Act Sub-Committee meeting held on 27 September 2010 and the General Licensing Sub-Committee meeting held on 14 October 2010.

6. **Regulation of Hypnotism - Hypnotism Act 1952** (Pages 15 - 24)

To consider the representations received in response to the consultation exercise on the regulation of performances of hypnotism under the Hypnotism Act 1952 and to determine the conditions to apply to authorisations relating to performances of hypnotism.

7. **Re-adoption of Part II Local Government (Miscellaneous Provisions) Act 1976** (Pages 25 - 28)

To consider a proposal to re-adopt the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 within the Borough of Cheshire East.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Committee**  
held on Monday, 13th September, 2010 at Committee Suite 1,2 & 3,  
Westfields, Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor P Whiteley (Chairman)  
Councillor B Dykes (Vice-Chairman)

Councillors Rhoda Bailey, T Beard, D Bebbington, H Davenport, S Davies,  
L Gilbert, M Parsons, A Ranfield, C Tomlinson and J Wray

**OFFICERS**

Mrs K Khan, Licensing Solicitor  
Mr T Potts, Community Safety Manager  
Ms A Jackson, Licensing Enforcement Officer  
Mrs R Graves, Democratic Services Officer

**7 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors J Goddard and M Hardy.

**8 DECLARATIONS OF INTEREST**

No declarations of interest were made.

**9 PUBLIC SPEAKING TIME/OPEN SESSION**

Dr L Brown and Mrs M Charlton addressed the Committee in relation to  
Item 6 – Sexual Entertainment Venues – Schedule 3 Local Government  
Act (Miscellaneous Provisions) Act 1982.

**10 MINUTES OF PREVIOUS MEETING****RESOLVED:**

That the minutes of the meeting held on 5 July 2010 be approved as a  
correct record and signed by the Chairman.

**11 MINUTES OF LICENSING SUB-COMMITTEES****RESOLVED:**

That the minutes of the Licensing Act Sub Committees held on 7 July  
2010, 2 August 2010, 25 August 2010 and 31 August 2010 and the  
General Licensing Sub Committee held on 8 July 2010 and 20 August  
2010 be received.

**12 SEXUAL ENTERTAINMENT VENUES - SCHEDULE 3 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (AS AMENDED)**

The Committee considered a report on the proposal to carry out a consultation exercise on the proposed adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, within the Borough of Cheshire East, and the proposal to carry out a consultation exercise in relation to the draft policy on the licensing of sexual entertainment venues and the relevant level of fees.

Schedule 3 of the Local Government Act (Miscellaneous Provisions) Act 1985 made provisions for the regulation of 'sex establishments'. A 'sexual entertainment venue' for the purposes of the 1982 Act was "any premises at which relevant entertainment is provided before an audience for the financial gain of the organiser or the entertainer." 'Relevant entertainment' means "any live performance or any live display of nudity which is such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose or sexually stimulating any member of the audience (whether by verbal or other means)".

If a local authority had resolved before 6 April 2010 that Schedule 3 of the 1982 Act was to apply within its area, then the amendments in relation to sexual entertainment venues within the 2009 Act do not apply to the area of the local authority, although the authority may resolve that Schedule 3, as amended, is to apply to its area. Each of the predecessor district Councils had made resolutions to adopt the original provisions of Schedule 3 of the 1982 Act. These resolutions had been preserved and apply to Cheshire East on the basis of regulation 4 of the Local Government Act (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008.

If the Council does not make a resolution to adopt the amended Schedule 3 of the 1982 Act within one year of the legislation coming into force (i.e. by 6 April 2011) then 'as soon as reasonably practicable' it must consult local people about adopting the legislation. Whilst it was not a statutory requirement to consult if adopting the legislation prior to April 2001, it was considered as good practice. Therefore authorisation was sought from the Committee to carry out a consultation exercise in relation to adoption of the amendments to Schedule 3 of the 1982 Act.

Similarly, there was no statutory requirement for a local authority to adopt a policy on the licensing of sex establishments, however, it is suggested that it would be best practice to consider such a policy. A policy on the licensing of sexual entertainment venues had now been drafted for Cheshire East, which would provide guidance to prospective applicants and members of the public and would assist with consistency of decision-making. The Committee was asked to approve, without prejudice to any decision in relation to adoption, consultation on the draft policy.

The Council was able to determine a 'reasonable fee' in relation to the grant, renewal or transfer of a sex establishment licence. Fees in relation to the grant and renewal of sex shop licences had been set in December 2008. The procedure relating to the processing of an application for a Sexual Entertainment Venue was the same as in relation to an application for a sex shop licence. It was therefore proposed that the fees for a Sexual Entertainment Licence should mirror those in relation to Sex Shops:–

- New application: £2,260
- Renewal: £1,130
- Transfer application: £500

**RESOLVED:**

That the Licensing Manager be authorised to

- (1) carry out a consultation exercise, as set out in the report, in relation to the proposed adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, within the Borough of Cheshire East;
- (2) without prejudice to any decision in relation to the adoption of the legislation, to carry out a consultation exercise, as set out in the report, in relation to (i) the draft policy on the licensing of sexual entertainment venues (including a set of draft conditions) set out in the Appendix to the Report; and (ii) the relevant fee levels.

**13 REVIEW OF HACKNEY CARRIAGE SERVICE**

The Committee considered a report which proposed a comprehensive review of the hackney carriage service across each of the three zones within Cheshire East Borough Council.

The Committee on 18 January 2010 had authorised the Licensing Manager to carry out a consultation exercise relating to the policy of limiting the number of hackney carriages within the Congleton zone of the Council's area. Since this decision a number of representations had been received from members of the hackney carriage trade associations and local MPs. Their concerns focused on the current policy within the zones of Macclesfield and Crewe of not imposing a numerical limit on hackney carriages. Also highlighted was the variety of fares charged to the public across the three zones; the existing licence terms and conditions in relation to hackney carriage vehicles and drivers across the three zones; and the accessibility and availability of the service for the public including rank provision and location.

Following discussions with representatives of the three hackney carriage associations, a proposal was formulated in relation to a wide-ranging

review of the hackney carriage licensing function. It was suggested that in order to address the disparities across the three zones and to develop a consistent approach within the Borough, a comprehensive review of the policies and procedures relating to hackney carriages should be undertaken. The issues which would be addressed as part of the review included:

- Service Levels
- Hackney Carriage Fares
- Existing Terms and Conditions
- Provision and location of taxi ranks

The Committee was asked to set aside its decision of 18 January 2010 and approval was sought for a comprehensive review of policies and procedures relating to hackney carriages in order to address the disparities across the three zones and to develop a consistent approach within the Borough.

**RESOLVED:**

That the decision of the Licensing Committee on 18 January 2010 be set aside and a review of the hackney carriage service, as set out within the report, be undertaken.

**14 RENEWAL OF SEX SHOP LICENCE - 74, EDLESTON ROAD, CREWE, CHESHIRE**

The Committee considered a report regarding an application for the renewal of the Sex Shop Licence relating to premises at 74 Edleston Road, Crewe.

The representative for Darker Enterprises Ltd had been unable to attend the hearing and had submitted written evidence in support of their application.

An objection had been received to the notice of renewal application. The objector was not present at the hearing.

After considering the application and in accordance with the rules of procedure, the Chairman reported that after taking into account all the evidence submitted, the following course of action had been agreed:

**RESOLVED:**

That the application to renew the Sex Shop Licence relating to premises at 74 Edleston Road, Crewe be granted as follows:

Use of premises as sex shop for the following days and hours:  
Monday to Saturday 9.30 am to 8.00 pm  
Sunday 10.00 am to 4.00 pm

The meeting commenced at 2.00 pm and concluded at 3.15 pm

Councillor P Whiteley (Chairman)

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Licensing Act Sub-Committee**  
held on Monday, 27th September, 2010 at The Capesthorne Room - Town  
Hall, Macclesfield SK10 1DX

**PRESENT**

Councillor P Whiteley (Chairman)

Councillors T Beard and A Ranfield

**OFFICERS PRESENT**

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

**13 APPOINTMENT OF CHAIRMAN**

RESOLVED – That Councillor P Whiteley be appointed Chairman.

**14 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**15 APPLICATION FOR PREMISES LICENCE - PARK TAVERN, 158 PARK LANE, MACCLESFIELD**

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

The applicants and a number of local residents 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 interested parties, the Police and Environmental Health,

the following course of action had been agreed:

RESOLVED – That the application to grant a Premises Licence for Vale Inn Ltd be granted as follows:

Recorded Music

Monday to Sunday 10.00 to 24.00

The playing of recorded music will take place indoors.

Seasonal variations: Christmas Eve – extend terminal hour by 2 hours, New Years Eve – Extend terminal hour up until start of New Years Day trading.

Sale and supply of alcohol

Monday to Sunday 12.00 to 24.00

The supply of alcohol will be for consumption both on and off the premises.

Seasonal variations: Christmas Eve – extend terminal hour by 2 hours, New Years Eve – Extend terminal hour up until start of permitted hours on New Years Day

Late Night Refreshment

Monday to Sunday 23.00 to 24.00

The provision of late night refreshment will take place indoors.

Seasonal variations: Christmas Eve – extend terminal hour by 2 hours, New Years Eve – Extend terminal hour up until start of New Years Day trading.

Hours Premises are open to the public

Monday to Sunday 10.00 to 00.30

Seasonal variations: Christmas Eve – extend terminal hour by 2 hours, New Years Eve – Extend terminal hour up until start of permitted hours on New Years Day.

In addition the following conditions were imposed:-

1. The Designated Premises Supervisor shall ensure that all reasonable steps are taken to ensure that open bottles/cans/vessels are not taken from the premises onto the street at any time and are not taken into the beer garden after 20.00.
2. The outdoor area to the rear of the premises (known as the beer garden) shall not be used by patrons for any purpose after 21.00 hours on any day.
3. Signs shall be erected within the beer garden and by the access door to the beer garden to request patrons to be considerate of the residential amenity of neighbours in terms of noise.
4. Signs shall be erected by the front door to request that patrons leave the premises quietly in terms of respecting the residential amenity of neighbours.

5. The Designated Premises Supervisor or a member of staff nominated by him shall ensure that the beer garden and the area on the street immediately in the vicinity of the premises are monitored on a regular basis to ensure that noise nuisance is not caused and to ensure that persons leaving the premises disperse in an orderly manner.

In respect of the application relating to the exhibition of films the Committee resolved the following:-

Whilst the Sub-Committee heard evidence from the Environmental Health Officer about the prevention of public nuisance in relation to noise resulting from the exhibition of films, the Sub-Committee felt that it had been provided with insufficient information within the operating schedule in relation to other significant issues in this regard. In particular, the Sub-Committee noted that there was no provision in relation to (a) supervision/attendants within the function room; (b) emergency exits and escape routes; and (c) emergency lighting. The Sub-Committee determined that it had not been provided with sufficient information about how this licensable activity would be carried out at the premises to enable it to impose conditions which would mitigate any harm to the licensing objectives. This element of the application was therefore refused.

The Committee wished to highlight the fact that should problems relating to the licensing objectives be linked to the operation of licensable activities at this premises then Responsible Authorities or Interested Parties may call for a review of the licence at any time.

Parties who made relevant representations were reminded of the right to appeal the decision to the Magistrates Court within 21 days as was the Applicant.

The meeting commenced at 12.30 pm and concluded at 3.10 pm

Councillor P Whiteley (Chairman)

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **General Licensing Sub-Committee**  
held on Thursday, 14th October, 2010 at Room A, Macclesfield Library,  
Jordangate, Macclesfield, SK10 1EE

### **PRESENT**

Councillor P Whiteley (Chairman)

Councillors H Davenport, L Gilbert, A Ranfield and C Tomlinson

### **OFFICERS IN ATTENDANCE**

Mr J Hopper (Licensing Officer) and Mrs K Khan (Licensing Officer)

### **16 APPOINTMENT OF CHAIRMAN**

RESOLVED

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

### **17 APOLOGIES FOR ABSENCE**

None.

### **18 DECLARATIONS OF INTEREST**

None.

### **19 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.

### **20 10-11/05 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 and his prospective employer were in attendance throughout the hearing and spoke in support of the application.

At this point in the proceedings, the applicant, his prospective employer 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, the applicant's prospective employer 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 was not a "fit and proper" person to hold a Hackney Carriage/Private Hire Driver's Licence.

**21 10-11/06 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 and his Solicitor were in attendance throughout the hearing and spoke in support of the application.

At this point in the proceedings, the applicant, his Solicitor 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, his Solicitor 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 was 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 11.25 am

Councillor P Whiteley (Chairman)

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: LICENSING COMMITTEE**

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<b>Date of Meeting:</b>	<b>8<sup>th</sup> November 2010</b>
<b>Report of:</b>	<b>Licensing Manager</b>
<b>Subject/Title:</b>	<b>Regulation of hypnotism – Hypnotism Act 1952</b>

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#### **1.0 Report Summary**

- 1.1 The report provides details of the representations received in response to the consultation exercise on the regulation of performances of hypnotism under the Hypnotism Act 1952.

#### **2.0 Recommendations**

- 2.1 The Licensing Committee is requested to:
  - 2.1.1 consider the representations received during the consultation period; and
  - 2.1.2 to determine the conditions to apply to authorisations relating to performances of hypnotism.

#### **3.0 Reasons for Recommendations**

- 3.1 A representations have been received in response to the consultation on the proposed conditions relating to performances of hypnotism. The Licensing Committee is therefore requested to consider the representations and to determine the conditions to apply.

#### **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 requests that the Committee determines conditions which would attach to authorisations granted by the Council.

**7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)**

- 7.1 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.

**8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 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.
- 8.2 Sub-section 2(2) states that any authorisation under section 2 may be made “subject to any conditions.”
- 8.3 ‘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.”
- 8.4 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.

**9.0 Risk Management**

- 9.1 Failure to properly consider representations would put the decision made at risk of challenge.

**10.0 Background and Options**

- 10.1 As Members will recall, 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).
- 10.2 At its meeting on 5<sup>th</sup> July 2010 the Licensing Committee resolved to authorise the Licensing Manager to carry out a consultation exercise in relation to a set of draft conditions (a copy of which is attached as Appendix A) and, in the event that no consultation responses were received, to approve the proposed conditions.

10.3 The draft conditions were subject to a twelve week consultation exercise which concluded on 8<sup>th</sup> October 2010, and included 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 had made contact with the Council. In addition, the details of the consultation were included on the Council's website.

10.4 Three responses were received, the details of which are set out below:

10.4.1 a verbal response from a representative of the Federation of Ethical Stage Hypnotists suggested that the conditions were what would normally be expected and that there did not appear to be anything that needed adding to or removing from the draft conditions;

10.4.2 a response from the Police Licensing Office advised that the proposed application form provided all the relevant information in order for the Police to make an informed decision as to the suitability of the applicant and the conditions appear to provide clear and proportionate controls which strike a balance between legitimate concerns for public safety and the ability for hypnotists to trade.

10.4.3 the Chairman of Knutsford PubWatch suggested that the conditions be amended to require the submission of an up to date copy of liability insurance with applications. As the Committee will note, condition 3 of the draft conditions state:

*Insurance*

*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.*

10.5 The Committee is requested to consider the responses received, as set out in paragraph 10.4 above, and to determine the conditions to apply to authorisations for the performance of hypnotism.

**11.0 Overview of Year One and Term One Issues**

11.1 Not applicable.

**12.0 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](mailto: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)

<b>1</b>	<b>Personal/Business details</b>		
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)		

<b>2</b>	<b>Membership of a professional organisation</b>		
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		

<b>3</b>	<b>Public liability insurance</b>		
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		

<b>4</b>	<b>Proposed venue for the performance(s)</b>	
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	

<b>5</b>	<b>Planned performance(s)</b>	
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	

<b>6</b>	<b>Last three performances</b>		
	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		



<b>6</b>	<b>Last three performances</b>	
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	

<b>7</b>	<b>Previous refusals and convictions</b>		
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)		

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

<b>9</b>	<b>Declaration and signature</b>	
	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.

	<b>Congleton (01270) 537112</b>	<b>Crewe &amp; Nantwich (01270) 537114</b>	<b>Macclesfield (01625) 504206</b>
<b>LICENSING AUTHORITY Cheshire East Borough Council</b>	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

## **CHESHIRE EAST COUNCIL**

### **REPORT TO: LICENSING COMMITTEE**

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<b>Date of Meeting:</b>	<b>8<sup>th</sup> November 2010</b>
<b>Report of:</b>	<b>Licensing Manager</b>
<b>Subject/Title:</b>	<b>Re-adoption of Part II Local Government (Miscellaneous Provisions) Act 1976</b>

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#### **1.0 Report Summary**

- 1.1 The report provides details of a proposal to re-adopt the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 within the Borough of Cheshire East.

#### **2.0 Recommendations**

- 2.1 The Licensing Committee is requested to recommend to the Cabinet Member for Safer and Stronger Communities that the Borough Solicitor, or officer acting on his behalf, be authorised to provide notice, in accordance with section 45 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), of the Council's intention to pass a resolution to adopt the provisions of Part II of the 1976 Act in relation to the Council's administrative area.

#### **3.0 Reasons for Recommendations**

- 3.1 Re-adoption of the legislation is proposed in order to consolidate the three previous resolutions of the predecessor district authorities into one resolution, and to ensure certainty in any enforcement action taken under the legislation.

#### **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 None

**7.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)**

- 7.1 There will be a cost implication relating to the publication of the statutory notices. The estimated publicity costs for the statutory notices is estimated to be £5,000. The Licensing Section has a publicity budget 2010/11 amounting to £3,500. The estimated overspend of £1,500 resulting from the cost of advertising the statutory notices will have to be funded by a budget virement from the Licensing printing & stationery budget.

**8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 Section 45(2) of the 1976 Act provides that if the Town Police Clauses Act 1847 is in force in the area of a district council, the council may resolve that the provisions Part II of the 1976 Act (other than section 45), are to apply to the relevant area; and if the council do so resolve those provisions shall come into force in the relevant area on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed). "The relevant area" for these purposes means: (a) if the Act of 1847 is in force throughout the area of the council, that area; and (b) if the Act of 1847 is in force for part only of the area of the council, that part of that area.
- 8.2 Section 45(3) provides that a council shall not pass a resolution adopting Part II of the 1976 Act unless it has (a) published a notice of intention to pass the resolution in a local newspaper circulating in the area for two consecutive weeks; and (b) served a copy of the notice, not later than the date on which it is first published in the newspaper, on the each Parish or community council within the area to be affected.

**9.0 Risk Management**

- 9.1 It is suggested that re-adoption of the legislation, in accordance with section 45 of the 1976 Act, will ensure certainty in any enforcement action.

**10.0 Background and Options**

- 10.1 Part II of the Local Government (Miscellaneous Provisions) Act 1976 contains provisions in relation to the licensing of private hire and hackney carriage vehicles, drivers and operators.
- 10.2 Each of the three predecessor district Councils made resolutions to adopt Part II of the 1976 Act. Crewe and Nantwich Borough Council resolved on 27<sup>th</sup> May 1982 that Part II would come into force in its area on 1<sup>st</sup> October 1982. Macclesfield Borough Council resolved on 20<sup>th</sup> October 1977 that the provisions would come into force on 1<sup>st</sup> April 1978. Congleton Borough Council resolved on 1<sup>st</sup> October 1981 that the provisions would come into force in its area on 1<sup>st</sup> November 1981.

- 10.3 It is suggested that it would be beneficial to consolidate the adoption resolutions for the purpose of clarity for the future and to ensure certainty in any enforcement action taken under the legislation. The function of adopting Part II of the 1976 Act is, by virtue of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) a function of the Executive.
- 10.4 It is therefore proposed that the Committee recommend to the Cabinet Member for Safer and Stronger Communities that authority be given for the provision of notice, in accordance with section 45 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), of the Council's intention to re-adopt the provisions of Part II of the 1976 Act. In accordance with statutory requirements, as outlined in paragraph 8 above, notice will consist of the publication of a notice of intention in local newspapers for two consecutive weeks and service of the notice on the Town/Parish and Community Councils within the Borough.

## **11.0 Overview of Year One and Term One Issues**

- 11.1 None

## **12.0 Access to Information**

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

Name: Mrs K Khan  
Designation: Solicitor, Legal Services  
Tel No: 01270 685847  
Email: [kate.khan@cheshireeast.gov.uk](mailto:kate.khan@cheshireeast.gov.uk)

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