

# **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:

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**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