

Licensing and Regulatory Committee



Forest Heath
District Council

Title:	Agenda		
Date:	Monday 23 May 2016		
Time:	6.00 pm		
Venue:	Council Chamber District Offices College Heath Road Mildenhall		
Full Members:	<u>Conservative Members (7)</u>	Michael Anderson Carol Lynch John Bloodworth Christine Mason Carol Lynch	Christine Mason Nigel Roman Bill Sadler Chris Barker
	<u>West Suffolk Independent Members (2)</u>	Ruth Allen	Andrew Appleby
	<u>UKIP Member (1)</u>	Reg Silvester	
The meeting will be preceded at 5.30pm by the usual informal meeting between the Committee and representatives of the Forest Heath Taxi Association.			
Substitutes:	Named substitutes are not appointed		
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.		
Quorum:	Three Members		
Committee administrator:	Helen Hardinge Democratic Services Advisor Tel: 01638 719363 Email: helen.hardinge@westsuffolk.gov.uk		

Agenda

Page No

Procedural Matters

Part 1 – Public

- 1. Election of Chairman for 2016/2017**
- 2. Election of Vice Chairman for 2016/2017**
- 3. Apologies for Absence**
- 4. Substitutes**
- 5. Public Participation**

Members of the public are invited to put questions/statements of not more than 3 minutes duration relating to items to be discussed in Part 1 of the agenda only.
- 6. Minutes** **1 - 4**

To confirm the minutes of the meeting held on 1 February 2016 (copy attached).
- 7. Adoption of Conditions in Respect of the Hypnotism Act 1952** **5 - 16**

Report No: **LIC/FH/16/003**
- 8. Training for Private Hire and Hackney Carriage Licence Holders** **17 - 22**

Report No: **LIC/FH/16/004**
- 9. Exclusion of the Press and Public**

To consider whether the press and public should be excluded during the consideration of the following items because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt categories of information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972, and indicated against each item and, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Part 2 – Exempt

- 10. Exempt Appendix 1: Training for Private Hire and Hackney Carriage Licence Holders (para 3) 23 - 24**

Exempt **Appendix 1** of Report No **LIC/FH/16/004**

(This item is to be considered under paragraph 3 of Schedule 12A of the Local Government Act 1972, as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information))

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Licensing and Regulatory Committee



Forest Heath
District Council

Minutes of a meeting of the **Licensing and Regulatory Committee** held on **Monday 1 February 2016** at **6.00 pm** at the **Council Chamber, District Offices**, College Heath Road, Mildenhall IP28 7EY

Present: **Councillors**

Chairman Michael Anderson

Vice Chairman Carol Lynch

John Bloodworth

Nigel Roman

Brian Harvey

Bill Sadler

30. **Apologies for Absence**

Apologies for absence were received from Councillors David Bimson, Christine Mason and Reg Silvester.

Councillor Ruth Allen was also unable to attend the meeting.

31. **Substitutes**

There were no substitutes at the meeting.

32. **Public Participation**

There were no questions/statements from members of the public.

33. **Minutes**

The minutes of the meeting held on 30 November 2015 were unanimously accepted by the Committee as an accurate record and were signed by the Chairman.

34. **Proposed Joint West Suffolk Sex Establishment Policy (Report No LIC/FH/16/001)**

The Business Regulation and Licensing Manager presented this report which sought approval to undertake consultation on a joint West Suffolk Sex Establishment Licensing Policy.

Members were advised that in respect of the District Council no significant changes were being made to the proposed policy, which was largely 'as is' with only minor amendments to enable it to become a joint document.

However, for St Edmundsbury Borough Council the joint policy would completely replace that already in place for the Borough Council meaning that the consultation would be more in depth.

Attention was drawn to Page 7 of the policy document and Paragraph 1.2 which was unfortunately illegible on the printed agenda due to a printing error. The Officer confirmed that the paragraph should have read:

"Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Local Government (Miscellaneous Provisions) Act 1982 or Schedules under the Act."

Councillor Brian Harvey raised a number of queries with the draft policy attached as Appendix 1 to Report No LIC/FH/16/001, seeking clarity on a number of matters. In response to which, the Officer agreed to include a glossary in the policy to increase understanding.

The Officer also clarified (in response to further comments raised by Councillor Harvey) that all reference to Criminal Records Bureau checks (CRB checks) would be amended to read Disclosure and Baring Service checks (DBS checks).

It was proposed by Councillor Bill Sadler, duly seconded by Councillor Carol Lynch and with the vote being unanimous, it was

RESOLVED:

That the proposed West Suffolk Sex Establishment Licensing Policy, attached as Appendix 1 of Report No LIC/FH/16/001, be approved for informative consultation.

35. Exclusion of the Press and Public

It was proposed by Councillor Carol Lynch, seconded by Councillor Bill Sadler and with the vote being unanimous, it was

RESOLVED:

That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as prescribed in Part 1 of Schedule 12A of the Local Government Act 1972, and indicated against each item and, in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

36. Application for the Grant of a Combined Hackney Carriage/Private Hire Driver's Licence (para 1) (Report No LIC/FH/16/002)

The Committee was asked to consider an application for a Combined Hackney Carriage/Private Hire Driver's Licence under the provision of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976.

The Business Regulation and Licensing Manager presented the report which explained that the application was before Members to determine in light of convictions declared by the applicant. In view of which, the Committee needed to be satisfied that the applicant was a fit and proper person to hold a licence issued by the Council. Attention was drawn to Appendix 3 (of Report No LIC/FH/16/002) which set out the Council's Taxi and PHV Licensing Criminal Convictions' Policy that served as guidance for Members.

The applicant attended the meeting to present his case and answered Members' questions.

Following which the applicant and the Licensing Officer left the meeting prior to the Committee's deliberations.

In response to questions from Members the Lawyer advised that the endorsements on the applicant's licence, which were now spent, could be considered relevant if it was felt that they showed a pattern of behaviour which would indicate whether or not the applicant is deemed to be a 'fit and proper' person.

Following discussion, it was proposed by the Chairman that the application be refused and this was duly seconded by Councillor Brian Harvey. Upon being put to the vote and with 4 voting for the motion and with 2 abstentions, it was

RESOLVED:

That the Committee determined that the endorsements accrued by the applicant indicated a pattern of behaviour indicating that he was not a fit and proper person to hold a licence. The regularity of endorsement over a period of several years showed a pattern of behaviour and the fact that the last endorsement was issued in February 2015, the Committee could not be confident that that pattern of behaviour had ended. Therefore, the application for a Combined Hackney Carriage/Private Hire Driver's License be refused.

The applicant and the Licensing Officer then re-joined the meeting in order to be advised by the Lawyer of the Committee's decision.

The Lawyer also advised the applicant of his right of appeal.

The Chairman thanked the applicant for his attendance.

The meeting concluded at 6.46pm

Signed by:

Chairman

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Licensing and Regulatory Committee



Forest Heath
District Council

Title of Report:	Adoption of Conditions in Respect of the Hypnotism Act 1952
Report No:	LIC/FH/16/003
Report to and date/s:	Licensing and Regulatory Committee – 23 May 2016
Portfolio holder:	Councillor James Waters Portfolio Holder for Planning and Growth Tel: 07771 621038 Email: james.waters@forest-heath.gov.uk
Lead officer:	Amanda Garnham Licensing Enforcement Officer Tel: 01284 757048 Email: amanda.garnham@westsuffolk.gov.uk
Purpose of report:	To seek Members' approval to introduce standard conditions for stage hypnotism performances.
Recommendation:	It is recommended that: <ol style="list-style-type: none"> 1. Members approve and adopt the conditions (attached at Appendix 1 to this report) so that they can be applied by the Licensing Authority to any future application under the Hypnotism Act; and 2. Delegated Authority be given to the Business Regulation and Licensing Manager, or equivalent, to determine any future applications under the Hypnotism Act 1952 and to authorise proceedings under this Act.
	<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>

Consultation:		• None necessary	
Alternative option(s):		• None applicable	
Implications:			
Are there any financial implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> The legislation does not provide any power for the Council to charge for consent. This is not considered to be an issue as the consideration of applications and the granting of consent are matters that are likely to arise infrequently and can be dealt with using existing resources. 	
Are there any staffing implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any ICT implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Are there any legal and/or policy implications? If yes, please give details		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <ul style="list-style-type: none"> It is an offence to give an exhibition, demonstration or performance of hypnotism on any person at or in connection with entertainment to which the public are admitted whether on payment or otherwise unless the authority has authorised that exhibition, demonstration or performance. It is also an offence to give such an exhibition in contravention of any conditions that have been imposed on an authorisation that has been granted. The maximum fine for contravention of the Act or any authorisation granted is £1000 	
Are there any equality implications? If yes, please give details		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <ul style="list-style-type: none"> No impact identified 	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	Low/Medium/ High*		Low/Medium/ High*
Failure to agree conditions for the Consent could put public and young persons at risk	Medium	Conditions are adopted under the Home Office Guidance to give control and public reassurance	Low
Ward(s) affected:		All	

<p>Background papers: <i>(all background papers are to be published on the website and a link included)</i></p>	<p>Hypnotism Act 1952 http://www.legislation.gov.uk/ukpga/Geo6and1Eliz2/15-16/46</p> <p>Home office Circular 39/1996 Copy available at: http://www.torfaen.gov.uk/en/Related-Documents/Licensing/Hypnotism-Home-Office-Circular.pdf</p>
<p>Documents attached:</p>	<p>Appendix 1 – Proposed Conditions Appendix 2 – Guidance Notes</p>

1. Key issues and reasons for recommendation(s)

1.0 Background

- 1.1 Following an enquiry from a stage hypnotist to receive authorisation to conduct a live performance in West Suffolk, officers identified that at present, the Council does not have an adopted set of model conditions.
- 1.2 The Hypnotism Act 1952 empowers licensing authorities to attach conditions to a public entertainments licence regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person at the place for which the public entertainment licence had been granted.
- 1.3 Standard conditions were previously incorporated into Public Entertainment Licences; however with the advent of the Licensing Act 2003 the loss of standard conditions has removed this option for control.
- 1.4 Displays of public hypnotism is not a regulated activity for the purposes of the Licensing Act 2003. Therefore the venue need not be licensed under that regime, however it is accepted that the vast majority of applications will be for premises where a premises licence is in force but there is no direct link.

2.0 Additional Supporting Information

Legal and Policy Implications

- 2.1 The Hypnotism Act 1953 as amended makes it a criminal offence to conduct hypnotism for public entertainment unless authorisation has been given by the Licensing Authority
- 2.2 Section 6 of the Act defines hypnotism as follows:
- ‘Hypnotism’ includes hypnotism, mesmerism and any similar act or process which produces or is intended to produce in any person any form of induced sleep or trance in which the susceptibility of the mind of that person to be increased but does not include hypnotism, mesmerism or any such similar act or process which is self-induced.

- 2.3 The Act imposes a restriction on hypnotising anyone under 18. There are saving provisions which make legitimate scientific or medical hypnotism exempt from the need for licensing provided that it is not undertaken for public entertainment.
- 2.4 It is open for the Licensing Authority to impose such conditions as it may see fit on any hypnotism licence. However, it should be noted that there is a guidance in the form of Home Office Circular 39/1996, which although released prior to the changes under the Licensing Act 2003 remains current.
- 2.5 The proposed conditions attached as Appendix A to this report follow the model scheme and are intended to strike a balance between legitimate concerns for public safety and the ability for hypnotists to trade.
- 2.6 The proposed conditions include a requirement to admit authorised officers to allow for inspection. The Act only gives a right of entry to police officers the proposed extension by condition to Licensing Officers is considered a proportionate step in regulating the event. Although licensing officers will not
- 2.7 have a power of entry under this condition, failure to admit an officer would be a breach of condition and therefore a criminal offence.

3.0 **Other issues**

- 3.1 The provision of model conditions and related guidance notes/procedure will assist future applicants by providing an efficient and timely licensing service that assists the operation of individuals and/or businesses requiring a licence or consent. In turn this may increase opportunities for economic growth in West Suffolk
- 3.2 It is the duty of licensing authorities to safeguard and protect the general public. The majority of performances will be undertaken by reputable performers with due regard to guidance, however appropriate regulation will ensure that the public can be confident that appropriate safeguards are in place.

HYPNOTISM ACT 1952**HOME OFFICE CIRCULAR NO. 42/1989
HOME OFFICE CIRCULAR NO. 39/1996****CONDITIONS REGULATING EXHIBITION,
DEMONSTRATION OR PERFORMANCE OF HYPNOTISM**

Conditions for hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

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 a minimum of £5 million public liability insurance. The hypnotist must provide evidence of this to the local authority if requested and it must be available for inspection at the performance.

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 that 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 that 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

Where:

- i. a police officer; or
- ii. an authorised officer of the Licensing Authority; or
- iii. an authorised officer of the fire 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.

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**HYPNOTISM ACT 1952
HOME OFFICE CIRCULAR NO.
42/1989 HOME OFFICE
CIRCULAR NO. 39/1996**

GUIDANCE INFORMATION

Background Information

The Hypnotism Act 1952 empowered licensing authorities for public entertainments under the Local Government (Miscellaneous Provisions) Act 1982 to attach conditions to a public entertainments licence regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person at the place for which the public entertainment licence had been granted.

Concern over the content of some performances of stage hypnotism prompted the issue of Home Office Circular No. 42/1989, which proposed revised and updated guidance for local authorities whilst exercising their licensing responsibilities.

Effect of the Hypnotism Act 1952

The Act contains the following provisions:

1. The effect of section 1(1) of the Act enables any licensing authority in England and Wales that has the power to grant licences for the regulation of places kept or ordinarily used for public dancing, singing, music or other public entertainment of a similar kind, to include in the conditions that the licensing authority attaches to such licences, conditions regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person.
2. Section 2(1) of the Act prohibits the giving of an exhibition of hypnotism at or in connection with public entertainment other than at a place licensed for public music and dancing, etc., unless the exhibition has been authorised by the licensing authority.
3. Section 3 of the Act, as amended by the Family Law Reform Act 1969, makes it an offence to give, at or in connection with public entertainment, an exhibition of hypnotism on a person under the age of 18 unless the person giving the exhibition had reasonable cause to believe that the person was aged 18 or over.
4. Section 4 of the Act gives any police officer the power to enter premises where any entertainment is held if he/she has reasonable cause to believe that the Hypnotism Act is being or may be contravened.
5. Section 5 of the Act provides an exemption in respect of an exhibition of hypnotism given (other than at or in connection with an entertainment) for scientific or research purposes or for the treatment of mental or physical disease.

6. Section 6 of the Act defines hypnotism as follows:

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

Hypnotism Act 1952 and the Licensing Act 2003

1. Under Section 1(1) of the 1952 Act a licensing authority had the power to include in the conditions that it attached to a public entertainment licence issued under the Local Government (Miscellaneous Provisions) Act 1982, conditions regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person.
2. Under the Licensing Act 2003 only those conditions specified by the applicant in their operating schedule or as agreed at a licensing hearing can be attached to a premises licence or club premises certificate. No conditions can be attached by the licensing authority to a temporary event notice (TEN). As 'blanket conditions' are also not permitted under the Licensing Act 2003, licensing authorities are no longer able to regulate hypnotism in the same way as under public entertainment licensing
3. Although Section 4 of the Hypnotism Act gave power of entry to police officers only, the Licensing Act 2003 does permit entry to authorised officers of licensing authorities and responsible authorities to all premises where a premises licence has been granted. However, under the Licensing Act 2003 power of entry is restricted in those premises where a club premises certificate has been granted or a temporary event notice (TEN) has been authorised.
4. Individual exhibitions, demonstrations or performances of hypnotism in premises that have been granted a premises licence, club premises certificate or with an authorised temporary event notice (TEN) under the Licensing Act 2003 will be licensed in accordance with the procedure below.

Hypnotism Act 1952 – Regulation of Exhibitions, Demonstrations or Performances of Hypnotism in Premises licensed under the Licensing Act 2003 (Annex to Home Office Circular NO. 42/1989)

1. No exhibition, demonstration or performance of hypnotism as defined in Section 6 of the Hypnotism Act 1952 shall be given on any person at the licensed premises or under the provision of a temporary event notice (TEN) except with the express written consent of the licensing authority and in accordance with any conditions attached to such a consent.
2. An application for consent to hold an exhibition, demonstration or performance of hypnotism shall be in writing and signed by the holder of the premises licence, club premises certificate or the person serving the TEN or his/her agent and shall be made not less than 28 days in advance of the exhibition. A copy of the application shall at the same time be sent to the chief officer of police and the fire authority. The application shall contain the following particulars:

- a. the full name and address of the person ('the hypnotist') who is to give the exhibition, demonstration or performance;
 - b. a description of the proposed exhibition, demonstration or performance;
 - c. a statement as to whether the hypnotist has been previously refused or had withdrawn a consent by any licensing authority, giving full details of the reasons why a consent has been refused or withdrawn; and
 - d. a statement as to whether the hypnotist has 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 an exhibition, demonstration or performance of hypnotism on any person at a place licensed for public entertainment.
3. In relation to any consent given the following conditions shall apply:
- a. The exhibition shall be so conducted as not to be likely to cause harm to any person attending it.
 - b. No person shall be caused, while under the influence of hypnotism, to say or do anything offensive to the public. If the licensing authority notifies the licence holder in writing that it objects to anything said or done in the course of the exhibition, such thing shall not thereafter be included in the exhibition.
 - c. No exhibition, demonstration or performance shall include:
 - i. any experiment involving the age regression of the subject;
 - ii. the giving of hypnotherapy or any other form of treatment;
 - iii. any experiment in which the subject is suspended between two supports (so called 'catalepsy');
 - iv. the giving of suggestions to the subject that he/she should perform any act or behave in any manner that is likely to be interpreted as indecent, offensive or harmful, nor that he/she should consume any substance that is either noxious or harmful.
 - d. All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subjects (including those of the audience) before they leave the room or place in which the performance takes place. Likewise any post-hypnotic suggestions given shall take place only in the presence of the hypnotist and shall not continue after the performance or away from the room or place in which the performance takes place.
 - e. The exhibition shall conform to the description submitted to the licensing authority unless the authority has required or expressly authorised a modification.
 - f. Any modifications in the exhibition subsequently required by the licensing

authority shall be made immediately upon notice thereof being given by the authority to the licence holder.

- g. No inducements shall be offered to member of the public to subject themselves to the influence of the hypnotist.
- h. No poster, advertisement or programme relating to the exhibition shall be displayed, sold or supplied, by or on behalf of the licence holder either at the premises or elsewhere, which is likely to be injurious to morality or otherwise offensive to the public feeling. If the licensing authority notifies the licence holder in writing that it objects to a poster, advertisement or programme so displayed, sold or supplied, that poster, advertisement or programme shall not thereafter be displayed, sold or supplied.
- i. Every poster, advertisement or programme, relating to the exhibition, displayed, sold or supplied at the premises shall draw attention, in a clear and legible manner, to the prohibition on the hypnotising of persons under the age of 18 as imposed by Section 3 of the Hypnotism Act 1952.

Power of Entry for Enforcement

In relation to premises not licensed for entertainment activities, such as a premises holding a club premises certificate or premises operating under a temporary event notice (TEN), but where Section 2 of the Hypnotism Act applies, an additional condition will be attached to an authorisation to permit an authorised officer of the licensing authority entry to the premises during a demonstration of hypnotism authorised under this section of the Act.

This would not amount to power of entry, but breach of conditions constitutes an offence under the 1952 Act.

Prohibition of an Exhibition of Hypnotism

Under Section 1(1) of the Hypnotism Act 1952 licensing authorities have the power to prohibit absolutely an exhibition of hypnotism in premises licensed for public entertainment.

If a licensing authority decides to exercise this power the following wording will be used for this purpose:

'No person shall give at the premises (otherwise than as provided by Section 5 of the Hypnotism Act 1952) any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased'.

Licensing and Regulatory Committee



Forest Heath
District Council

Title of Report:	Training for Private Hire and Hackney Carriage Licence Holders
Report No:	LIC/FH/16/004
Report to and date/s:	Licensing Committee - 10 November 2014 Report No LIC14/374
	Licensing and Regulatory Committee – 23 May 2016
Portfolio holder:	Councillor James Waters Portfolio Holder for Planning and Growth Tel: 07771 621038 Email: james.waters@forest-heath.gov.uk
Lead officer:	Sheila Gowans Licensing Officer Tel: 01638 719369 Email: sheila.gowans@westsuffolk.gov.uk
Purpose of report:	To seek Member endorsement in professionalising and increasing the knowledge of the drivers we licence using an effective training tool which also offers a recognised qualification
Recommendation:	It is recommended that Members: <ol style="list-style-type: none"> 1. Note the contents of the report and support the change in requirements for new drivers to complete the BTEC Level 2 Certificate, subject to consultation; and 2. Support the change in requirements for all current drivers to complete the BTEC Level 2 Certificate (within a timeframe to be set) subject to consultation.

Key Decision: <i>(Check the appropriate box and delete all those that do not apply.)</i>		<i>Is this a Key Decision and, if so, under which definition?</i> Yes, it is a Key Decision - <input type="checkbox"/> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
Consultation:		• To be carried out	
Alternative option(s):		• None applicable	
Implications:			
<i>Are there any financial implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> • Within budget	
<i>Are there any staffing implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> • Planned work with current resources	
<i>Are there any ICT implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any legal and/or policy implications? If yes, please give details</i>		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • See body of report	
<i>Are there any equality implications? If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> • No impact identified	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
	Low/Medium/ High*		Low/Medium/ High*
Implementing any policy or code which fails to meet current legislative or good practice requirements could leave this Licensing Authority open to a challenge.	High	Ensuring relevant licence holders are informed of the changes.	Medium
Ward(s) affected:		All	

<p>Background papers: (all background papers are to be published on the website and a link included)</p>	<p>Local Government Association: Taxi and PHV Licensing – Councillors’ Handbook http://www.local.gov.uk/documents/10180/6869714/L15-87+Councillor+Handbook+-+Taxi+and+PHV+Licensing_06.pdf/c73bec4b-cd31-4bcd-be2c-f5fe3e87b4f4</p> <p>Town Police Clauses Act 1847 http://www.legislation.gov.uk/ukpga/Vict/10-11/89</p> <p>Local Government (Miscellaneous Provisions) Act 1976 http://www.legislation.gov.uk/ukpga/1976/57</p> <p>Example BTEC Syllabus http://qualifications.pearson.com/content/dam/pdf/btec-specialist/BA029037-BTEC-L2-Intro-to-the-Role-of-the-Professional-Taxi-and-Private-Hire-Driver-Issue2.pdf</p>
<p>Documents attached:</p>	<p>Appendix 1 – Proposal from West Suffolk College (exempt document)</p>

1.0 Key issues and reasons for recommendation(s)

- 1.1 Taxis (Hackney Carriages) and Private Hire Vehicles (PHVs) are vital to our communities, providing essential transport links for many. The Local Government Association Taxi and PHV Licensing – Councillors’ Handbook, states that elected members, are responsible for ensuring the public travel safely and receive a good level of service, and that the council systems attract good, reputable drivers.
- 1.2 There have been recent examples nationally, that Members will be aware of concerning licensed drivers, vehicles and operators being involved in the sexual exploitation of children. Taxis and PHVs are regularly used to transport children during the school run. Elderly and disabled users also rely heavily on the door-to-door service taxis and PHVs provide, as it is often the only way for many residents to access local services. Clearly, drivers must therefore command the highest level of confidence before they can be entrusted with this responsibility. It is essential that this responsibility is taken seriously to determine whether someone is a ‘fit and proper’ person to hold a licence.
- 1.3 Sections 51, 57 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act) collectively bar a Council from granting either a Hackney Carriage or Private Hire Driver’s Licence to an applicant unless the Council is sure that the applicant is a “fit and proper person” to hold such a licence. Furthermore, existing drivers must act in a way as to satisfy the council that they continue to be ‘fit and proper’ to hold a licence.

- 1.4 Under these provisions the Council's "fit and proper person" test currently includes the following:
- Criminal records check via the Disclosure and Barring Service (DBS);
 - Driving history check via the Driver and Vehicle Licensing Authority (DVLA);
 - Medical Check via the applicant's own General Practitioner;
 - Successful completion of the a Driving Standards Agency (DSA) assessment for hackney carriage/private hire drivers; or the Institute of Advanced Motorists (IAM) Advanced Driver test; or Royal Society of Prevention of Accidents (RoSPA) Advanced Driver test.
- 1.5 Recently officers have investigated more complaints relating to the conduct of drivers, both existing and recently licensed. Whilst these have been isolated cases it has highlighted a need to improve the knowledge, training and skills of the licensed drivers and new applicants and the current prerequisites are considered insufficient.
- 1.6 Many Local Authorities now require drivers, both new and existing to obtain a qualification or pass their own in house tests. If our standards for drivers are seen to be lower than other councils, we are in danger of being seen as an easy council and attracting the drivers that fail to obtain a licence elsewhere. This would be detrimental to the area and the councils reputation.
- 1.7 In order to improve standards, professionalism and customer care and thereby reduce and prevent complaints from members of the public. We want to professionalise and increase the knowledge of the drivers we licence using an effective training tool which also offers a recognised qualification. After research into various methods of testing/training including in-house delivered options we propose an externally recognised qualification delivered by the West Suffolk College.
- 1.8 The Department of Transport endorses the introduction of qualifications in its 'Taxi and Private Hire Vehicle Licensing: Best Practice Guidance' (March 2010) which states, 'there may well be advantage in encouraging drivers to obtain one of the nationally-recognised vocational qualifications for the taxi and PHV trades'. Many Local Authorities now require all drivers to obtain a qualification.
- 1.9 We propose that all drivers obtain a BTEC Level 2 qualification – Introduction to the Role of the Professional Taxi and Private Hire Driver.
- 1.10 The BTEC course is designed to develop, support and enhance the knowledge of prospective or existing drivers and will help begin or develop careers in transporting passengers. For West Suffolk it will also ensure that drivers are better qualified than neighbouring areas; may support local drivers securing more contracts and returning customers; and help support the local economy through greater visitor and customer satisfaction which in turn may support return visits to West Suffolk.
- 1.11 The course covers a range of topics which include:
- Unit 1: Health and safety in the taxi and private hire work environment
 - Unit 2: Road safety when driving passengers in a taxi or private hire

vehicle

- Unit 3: Professional customer service in the taxi and private hire industry
- Unit 4: Taxi and private hire vehicle maintenance and safety
- Inspections
- Unit 5: The regulatory framework of the taxi and private hire industry
- Unit 6: Taxi and private hire services for passengers who require assistance
- Unit 7: Routes and fares in the taxi and private hire vehicle industries
- Unit 8: Transporting of parcels, luggage and other items in the taxi and private hire industries
- Unit 9: Transporting of children and young persons by taxi or private hire vehicle

2.0 **Safeguarding and Disability Awareness**

- 2.1 Since April 2015, the Business Regulation and Licensing Manager for the West Suffolk Councils, has acted as the licensing lead for Suffolk on the Exploited Children Strategic Group which brings together a number of related work streams. The purpose of the group is to support the Suffolk Local Safeguarding Children's Board (LSCB), in fulfilling its statutory duty to monitor and evaluate the effectiveness of what is done by the Local Authority and Board partners, individually and collectively, to safeguard and promote the welfare of children and advise them on ways to improve. It also ensures there is a multi-agency response to the identification and safeguarding of vulnerable children and young people and the risks they may encounter.
- 2.2 A key strategic priority of the group and the LSCB is to raise awareness of what child exploitation is and what risk factors may indicate that a child or young person is being abused or at risk of abuse in a number of areas including the hackney carriage and private hire trade.
- 2.3 To support this awareness, information materials have been developed, however face to face training is key to ensuring that all drivers fully appreciate the signs and symptoms and what actions they can take to alert the appropriate agencies.
- 2.4 Working with the West Suffolk College, we would be able to ensure that safeguarding training is also incorporated into the BTEC delivery.
- 2.5 Additionally, the BTEC will offer suitable disability awareness training for all drivers, not just those who drive adapted vehicles.

3.0 **Implementation of the BTEC**

- 3.1 Officers propose that all new applicants be required to complete the course prior to application for a licence from the council. This would be in addition to the requirements listed in paragraph 1.4 above.
- 3.2 Officers also propose that all existing drivers would be given at least a year to obtain the BTEC level 2 qualification. After that date all driver renewal applications would require the qualification prior to licence renewal. West Suffolk has approximately 600 licensed drivers, of which approximately 200 are licensed by Forest Heath District Council.

- 3.3 Applicants and existing drivers would be responsible for arranging to attend a course directly. Following consultation with the West Suffolk College a proposal has been produced which can be found at Appendix 1.
- 3.4 Applicants will be expected to fund the course directly, however in certain circumstances some central government funding may be available.
- 3.5 Members are being requested to support a consultation process with a view to introducing a mandatory qualification and as a sensible enhancement to ensure that the Council only licence professional drivers who are 'fit and proper' in all aspects.

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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