

Licensing and Regulatory Committee



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Adoption of Conditions in respect of the Hypnotism Act 1952	
Report No:	LIC/SE/16/002	
Report to and date	Meeting	Licensing & Regulatory Committee 17 May 2016
	Meeting 2	
Portfolio holder:	Councillor Alaric Pugh Portfolio Holder for Planning and Growth Tel: 07930460899 Email: alaric.pugh@stedsbc.gov.uk	
Lead officer:	Amanda Garnham Licensing Enforcement Officer Tel: 01284 757048 Email: amanda.garnham@westsuffolk.gov.uk	
Purpose of report:	To seek the Committee's approval to introduce standard conditions for stage hypnotism performances.	
Recommendation:	<p>It is <u>RECOMMENDED</u>:</p> <p>That :</p> <p>(1) the Committee approves and adopts 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 1952; and</p> <p>(2) authority be delegated to the Licensing Manager, or equivalent officer, to determine any future applications under the Hypnotism Act 1952 and to authorise proceedings under the Act.</p>	

	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input checked="" type="checkbox"/></p> <p>No, it is not a Key Decision - <input type="checkbox"/></p> <p>(a) be significant in terms of its effects on communities living or working in an area in the District</p>
<p><i>The decisions made as a result of this report will usually be published within 48 hours and cannot be actioned until five clear working days of the publication of the decision have elapsed. This item is included on the Decisions Plan.</i></p>	
Consultation:	<ul style="list-style-type: none"> • None necessary
Alternative option(s):	<ul style="list-style-type: none"> • None applicable
Implications:	
<p><i>Are there any financial implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <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.
<p><i>Are there any staffing implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><i>Are there any ICT implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><i>Are there any legal and/or policy implications? If yes, please give details</i></p>	<p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <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 £1,000
<p><i>Are there any equality implications? If yes, please give details</i></p>	<p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <ul style="list-style-type: none"> • No impact identified
Risk/opportunity assessment:	<p><i>(potential hazards or opportunities affecting corporate, service or project objectives)</i></p>

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

1. Key issues and reasons for recommendation(s)

1. 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 A display 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. **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 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 1 to this report follow the model scheme and are intended to strike a balance between legitimate concerns for public safety and the ability for hypnotists to trade.
- 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 and the proposed extension by condition to Licensing Officers is considered a proportionate step in regulating the event. Although licensing officers will not 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. **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. Appropriate regulation will, however, ensure that the public can be confident that appropriate safeguards are in place.

4. **Conclusion/Recommendation**

- 4.1 That the Committee adopts the proposed conditions set out in the report to enable the efficient licensing and regulation of performances of hypnotism and that the Licensing Manager and Licensing Officers are each delegated the authority to determine applications for licences to perform hypnotism entertainment.