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**TITLE: ADOPTION OF CONDITIONS IN RESPECT OF THE HYPNOTISM ACT 1952**

Committee: Licensing Committee

Date: 19 July 2010

Author: Licensing Officer

[K77]

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1.0 ISSUE

1.1 To seek Members' approval to introduce standard conditions for stage hypnotism performances.

2.0 RECOMMENDATION(S)

2.1 That Members adopt the proposed conditions set out in the report to enable the efficient licensing and regulation of performances of hypnotism.

2.2 That Members approve an application fee of £85.00 for the grant of a hypnotism licence.

2.3 That the Head of Environmental Services is delegated by the authority to determine applications for licences to perform hypnotism entertainment.

3.0 BACKGROUND

3.1 There is a duty on licensing authorities to control public performances of hypnotism, mesmerism or 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 suggestion or direction is increased or intended to be increased.

3.2 There are no standard conditions attached to licences at the present time to control hypnotism.

3.3 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.

3.4 Concern over the content of some performances of stage hypnotism prompted the issue of Home Office Circulars No. 42/1989 and No. 39/1996, which proposed revised and updated guidance for local authorities whilst exercising their licensing responsibilities.

- 3.5 The licensing section has received enquiries from stage hypnotists to carry out performances in the East Cambridgeshire district. At present, the Council does not have an adopted set of model conditions.
- 3.6 Standard conditions used to be incorporated into Public Entertainment Licenses; however with the advent of the Licensing Act 2003 the loss of standard conditions has removed this option for control.
- 3.7 Displays of public hypnotism are not regulated entertainment 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.
- 4.0 EFFECT OF THE HYPNOTISM ACT 1952
- 4.1 The Hypnotism Act 1952 as amended makes it a criminal offence to conduct hypnotism for public entertainment unless a licence has been issued by the Licensing Authority.
- 4.2 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.
- 4.3 The Act imposes a restriction on hypnotising anyone under 18. There are saving provisions that make legitimate scientific or medical hypnotism exempt from the need for licensing provided that it is not undertaken for public entertainment.
- 4.4 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.
- 4.5 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.
- 4.6 As the Hypnotism Act 1952 only gives a right of entry to police officers, the proposed conditions include a requirement to admit authorised officers for inspection purposes. The proposed extension of the conditions to include

licensing officers is considered a proportionate step in regulating such events.

4.7 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 under the Act.

#### 5.0 FINANCIAL IMPLICATIONS

5.1 There are no additional financial implications for the Council. The obligations on applicants are limited and are not considered to have a significant regulatory impact.

5.2 The proposed application fee of £85.00 is consistent with fees charged by other licensing authorities and is deemed to cover both the administration of the hypnotism licence application and the necessary inspection of the premises prior to the hypnotism act taking place to ensure that all licensing conditions have and will be complied with.

#### 6.0 APPENDICES

6.1 Appendix 1 – Conditions regulating exhibition, demonstration or performance of hypnotism

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#### **Background Documents**

Hypnotism Act 1952  
Home Office Circular No.  
42/1989  
Home Office Circular No.  
39/1996

#### **Location**

Room FF113  
The Grange,  
Ely

#### **Contact Officer**

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**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.