



LICENSING COMMITTEE

Thursday 28 January 2010
to be held immediately following the meeting of the
Community Services Committee
in the Council Chamber, Ryedale House, Malton

Agenda

- 1 **Apologies for absence**
 - 2 **Minutes** (Pages 1 - 4)
To approve as a correct record the minutes of the meeting of the Licensing Committee held on 26 November 2009.
 - 3 **Urgent Business**
To receive notice of any urgent business which the Chairman considers should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.
 - 4 **Declarations of Interest**
Members to indicate whether they will be declaring any interests under the Code of Conduct.

Members making a declaration of interest at a meeting of a Committee or Council are required to disclose the existence and nature of that interest. This requirement is not discharged by merely declaring a personal interest without further explanation.
- PART 'A' ITEMS - Matters dealt with under delegated powers or matters determined by Committee**
- 5 **The Authorisation of Hypnotism - The Hypnotism Act 1952 (As amended)** (Pages 5 - 14)
 - 6 **Any other business that the Chairman decides is urgent.**

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Licensing Committee

Held at Council Chamber, Ryedale House, Malton
on Thursday 26 November 2009

Present

Councillors Mrs V Arnold, Mrs Cowan, Mrs L Cowling, Mrs Frank, Hawkins, Hemesley, Keal and Mrs Keal

In Attendance

Beckie Bennett, Liz Hayes, Phil Long, Steve Richmond and Julian Rudd

Minutes

24 Apologies for absence

Apologies for absence were received from Councillors Mrs De Wend Fenton, Hope and Mrs Warriner MBE.

25 Minutes

Resolved:

That the Minutes of the Licensing Committee held on 24 September 2009 be approved and signed by the Chairman as a correct record.

26 Urgent Business

There was no urgent business to consider

27 Declarations of Interest

Councillor Mrs Cowan declared a personal and prejudicial interest in item 6, Hackney Carriage Table of Fares, as her son was a Taxi driver.

28 Taxi Licensing Task Group Progress Report

Members considered a report which updated them on progress being made exploring potential future service delivery options for the taxi licensing service.

At the meeting of the Committee on 23 July 2009, it was resolved that a review be undertaken to identify alternative options for delivering the taxi licensing service to ensure that economy, efficiency and effectiveness was secured for the future.

A series of taxi licensing Member task group meetings over 18 months had taken place, and a key outcome was the need to ensure value for money and efficient service delivery. Discussions about the feasibility of an environmental health partnership between Craven, Harrogate, York, Selby, North Yorkshire Trading Standards and Ryedale were at a scoping stage. The next stage would be the development of a business case which would be the subject of a separate report to the Community Services Committee in the future.

As this work was ongoing, future reports would be forthcoming.

Resolved:

That Members endorse the ongoing feasibility work examining service delivery options for the taxi licensing service.

Reason:

In order that the review to identify alternative options for delivering the taxi licensing service can carry on.

29 **Hackney Carriage Table of Fares**

Members considered a report which informed them of the Hackney carriage table of fares for 2010/11.

Following consultation with hackney carriage drivers, it was felt that due to the recession, it was not necessary to increase fares that hackney carriages charge their passengers. It was agreed that fares would be reviewed for 2011/12 in the future.

Resolved:

That there be no change to the current table of hackney carriage fares in 2010/11.

Reason:

Due to the recession, it was not necessary to increase fares at this time.

Councillor Mrs Cowan declared a personal and prejudicial interest in this item and did not take part in the discussion or vote thereupon.

30 **Gambling Act 2005 - Setting of Fees**

Members considered a report which sought approval for the setting of fees under the provision of the Gambling Act 2005.

The report outlined the background to the setting of fees, and informed Members that in each case, the fee determined by a licensing authority must not exceed a maximum fee specified in the relevant regulation. The Act required that income from fees as near as possible equated to the costs of providing the service, meaning that the service should be cost neutral. The suggested discretionary fees had been increased in line with the 2009/10 Revenue Budget and were annexed to the report.

Resolved:

That the level of fees as recommended in Annex B to the report be approved.

Reason:

To keep the provision of the service as cost neutral as possible.

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PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING COMMITTEE
DATE:	28 JANUARY 2010
REPORT OF THE:	HEAD OF ENVIRONMENT PHIL LONG
TITLE OF REPORT:	THE AUTHORISATION OF HYPNOTISM – THE HYPNOTISM ACT 1952 (AS AMENDED)
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to provide information regarding the authorisation of hypnotism at or in connection with an entertainment, and recommends the adoption of conditions to be applied to any authorisation given by the Council as controlling authority

2.0 RECOMMENDATION(S)

2.1 It is recommended that:

- (i) That the staging of hypnotism as a means of entertainment be subject to the conditions set out in Annex B

3.0 REASON FOR RECOMMENDATION

3.1 To enable hypnotism as a form of entertainment to be staged in accordance with the Hypnotism Act 1952 (as amended), authorisation is required from the local authority. The adoption of conditions recommended in Annex B will protect the welfare and safety of those attending such an event.

4.0 SIGNIFICANT RISKS

4.1 The risk is that the Council have no approved conditions to attach to any such authorisation, thereby compromising the welfare and safety of those attending such an event. A risk matrix is available in Annex A.

REPORT

5.0 BACKGROUND AND INTRODUCTION

5.1 Formerly, the Local Government (Miscellaneous Provisions) Act 1982 regulated the performance of hypnotism under the authorisation of a public entertainment licence (PEL). On 24 November 2005, The Licensing Act 2003 replaced PELs by Premises Licences. New guidance has recently been received confirming that Premises Licences cannot be issued to permit the performance of hypnotism, because hypnotism is not regulated entertainment under the terms of the Licensing Act 2003. Conditions regarding hypnotism cannot be attached to a Licensing Act Premises Licence nor can a Temporary Event Notice (TEN) be used for a performance of hypnotism. It is therefore necessary for the Council to make provision to be able to accept applications for authorisations under the Hypnotism Act 1952 (as amended).

6.0 POLICY CONTEXT

6.1 The following Policies have informed this report:

- Council Plan 2009-13 – Aim 4: to have active communities where everyone feels welcome and safe.
- Ryedale District Council Licensing Policy 2008.

7.0 CONSULTATION

7.1 Officers are not aware of any premises having offered hypnotism or any hypnosis as a means of entertainment in the Ryedale District in the last 5 years or more. Due to this it has not been possible to consult with local providers. The conditions have been compiled after reviewing conditions set by other local authorities and are available in Annex B.

8.0 REPORT DETAILS

8.1 The Hypnotism Act 1952 (as amended) requires that no person shall 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 at any place, unless the authority (as controlling authority) has authorised that exhibition, demonstration or performance. Any authorisation may be subject to conditions. "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 suggestion or direction is increased or intended to be increased but does not include hypnotism, mesmerism or any such similar act or process which is self induced.

8.2 It is an offence to give an exhibition, demonstration or performance of hypnotism on any person or in connection with entertainment to which the public are admitted whether on payment or otherwise unless the authority has authorised the exhibition, demonstration or performance. There is a maximum fine of £1000. It is also an offence to hypnotise any person under the age of 18.

8.3 Under the terms of the Constitution The Head of Environment has delegated authority to determine applications made under the Hypnotism Act 1952 (as amended).

9.0 IMPLICATIONS

9.1 The following implications have been identified:

- a) Financial
There is no provision in the Hypnotism Act to charge for an authorisation.
- b) Legal
The Council as controlling authority need to adopt conditions that can be attached to any application made under the Hypnotism Act (as amended).
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)
None

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Background Papers:
None

Background Papers are available for inspection at:
Not applicable

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THE AUTHORISATION OF HYPNOTISM - RISK MATRIX – ANNEX A

Issue/Risk	Consequences if allowed to happen	Likelihood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
Risk that if application received the Council have no approved conditions to attach to such authorisation	Potentially compromising the welfare and safety of those attending such an event	5	C	Production of conditions to be attached to any such authorisation	1	A

Score	Likelihood	Score	Impact
1	Very Low	A	Low
2	Not Likely	B	Minor
3	Likely	C	Medium
4	Very Likely	D	Major
5	Almost Certain	E	Disaster

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Hypnotism Licence Conditions

1. Consents

No exhibition, demonstration or performance of hypnotism (as defined in Section 6 of the Hypnotism Act 1952) shall be given by any person at any venue except with the express written consent of the licensing authority and in accordance with any conditions attached to such a consent.

Any exhibition shall be so conducted as not to be likely to cause harm to those persons subjected to the influence of hypnosis, to say or do anything indecent, offensive or harmful to the public.

2. Applications

Any application for consent shall be in writing and signed by the applicant and shall be made not less than 28 days in advance of the exhibition, demonstration or performance concerned. The Licensing Authority is also to be informed of the following:

- 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.

3. Conditions

The following conditions shall apply to any consent given for an 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.

4. 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'.

5. 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 Licensing Authority if requested and it must be available for inspection at the performance.

6. 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.

7. Treatment of the audience and subjects

- a. Before starting 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 minders as agreed with the Licensing Authority shall be in attendance throughout to ensure their safety.

8. 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.

9. 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).

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