

PLYMOUTH CITY COUNCIL

Subject: Control of Public Performances of Hypnotism
Committee: Licensing Committee
Date: 10 December 2013
Cabinet Member: Councillor Brian Vincent (Environment)
CMT Member: Anthony Payne (Director of Place)
Author: David Hughes, Senior EHO (Licensing)
Contact details Tel: 01752 304158
E-mail: david.hughes@plymouth.gov.uk
Ref:
Key Decision: No
Part: I

Purpose of the report:

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.

The Council has not adopted standard conditions to be attached to licences to control public performances of hypnotism defined by the Hypnotism Act 1952, since the introduction of the Licensing Act 2003.

The purpose of this report is to consider procedures for the issue of consents for hypnotism to be performed and to adopt conditions to ensure the safety of the public at performances.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

Growing:

The balance of regulation against the need to protect residents is part of creating a consistent regulatory environment in which legitimate businesses can operate.

Caring:

Appropriate controls will allow decision-makers to consider the impact on safety and wellbeing of contributors and its impact on the local community.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The Act does not prescribe a fee and as such no fee is payable. Applications for hypnotism are extremely rare and the costs of processing applications will be met from existing revenue budgets.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management:

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The adoption of the standard conditions and the assessment of applications are intended to protect those persons attending and being part of any hypnotism demonstration. No-one under 18 years old may take part.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? No

Recommendations & Reasons for recommended action:

That Members consider this report and to:

Adopt the model conditions contained in Home Office Circular Guidance 39/1996 (Appendix I) which are to be applied to any future authorisation.

Alternative options considered and rejected:

Not to adopt standard conditions - The standard conditions provides applicants and responsible authorities with a common framework within which to conduct any performance of hypnotism in a safety and equitable manner. The model standard conditions provide current best practice. Standard conditions can be amended or added to as each application is taken on a case by case basis.

Published work / information:

None.

Background papers:

[Hypnotism Act 1952](#)

[Home Office Circular Guidance 39/1996](#)

Sign off:

Fin	CF/PlaceFESDI 314009.18.11.13	Leg	18997/ag/2 8.11.13	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member: Anthony Payne											
Have you consulted the Cabinet Member(s) named on the report? Yes											

1.0 Introduction

- 1.1 A performance of hypnotism is not a licensable activity under the Licensing Act 2003. Local authorities can only give permission for a display or performance of hypnotism under the Hypnotism Act 1952 (as amended). Any embedded conditions relating to hypnotism from the previous licensing regimes are no longer valid as hypnotism is not a licensable activity under the Licensing Act 2003.
- 1.2 The Hypnotism Act 1952 (The Act) states 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 the controlling authority have authorised that exhibition, demonstration or performance.

2.0 Effect of the Hypnotism Act 1952

- 2.1 The Hypnotism Act 1952 makes it a criminal offence to conduct hypnotism for public entertainment unless consent has been given by the Licensing Authority.
- 2.2 Hypnotism has been defined in Section 6 of the Act 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 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.
- 2.3 The Act imposes a restriction on hypnotising anyone under 18.
- 2.4 Legitimate scientific or medical hypnotism are exempt from the need for licensing provided that it is not undertaken for public entertainment.

3.0 Consideration of Applications

- 3.1 The Home Office Circular Guidance 39/1996 outlines the form that any application should take and requests the following;
 - Applications shall be in writing and signed by the applicant or his agent
 - Details of any previous offences under the Act, refusals or withdraw of consents
 - Applications shall normally be made not less than 28 days in advance of the performance,
 - The Licensing Authority will respond within 7 to 14 days,
 - The applicant must forward a copy of the application to the chief officer of police,
 - The Council may forward a copy of the application to the local fire authority if it is considered necessary.
- 3.2 The Constitution and Scheme of Delegation allow officers to grant applications where no objections are received, subject to the standard conditions or any additional conditions agreed with the applicant.

4.0 Conclusions

- 4.1 It is open for the Licensing Authority to impose such conditions as it may see fit on any hypnotism consent. The Guidance which was released prior to the changes under the Licensing Act 2003 remains current.

It is proposed that the model conditions which are attached marked as **Appendix I**, strike a balance between legitimate concerns for public safety and the ability for hypnotists to operate are adopted.

- 4.2 The proposed conditions include a requirement to admit authorised officers to allow for inspection as the Act only gives a right of entry to police officers. This additional requirement is considered proportionate in regulating any public event of hypnotism and failure to admit an authorised officer would be a breach of condition and therefore a criminal offence.
- 4.3 The Licensing Authority reserve the right to consult with any organisation or public body on any application for consent i.e. Police, Fire Authority and local community representatives.

STANDARD CONDITIONS TO BE ATTACHED TO LICENCES FOR THE PERFORMANCE OF STAGE HYPNOTISM

Consents

1. Any exhibition, demonstration or performance (hereafter referred to as a "performance") of hypnotism (as defined in the Hypnotism Act 1952) on any person requires the express written consent of the licensing authority and must comply with any attached conditions. The authority may consent under the provisions of the Hypnotism Act 1952.

Applications

2. An application for consent under condition 1 shall be in writing and signed by the applicant or his agent and shall normally be made not less than 28 days in advance of the performance concerned. This period may be reduced in the case of a hypnotist who has performed at the same venue within the last three years without any problems occurring. The authority will normally respond within 7-14 days; less where the hypnotist has previously performed at the same venue. The applicant must at the same time forward a copy of the application to the chief officer of police; and the authority may also copy it to the local fire authority if it considers this necessary.
3. The application shall contain 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"), along with details of their last three performances (where and when); and
 - (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 a place licensed for public entertainment. (Refusal of consent by another authority does not necessarily indicate that the particular hypnotist is unacceptable and will not of itself prejudice the application.)

Conditions

4. The following conditions shall apply to any consent given:

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 licensee 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'

Insurance

- (c) The performance shall be covered by public liability insurance for the sum of £5M. The hypnotist must provide evidence of this to the local authority if requested; and it must be available for inspection at the performance;

Physical arrangements

- (d) The means of access between the auditorium and the stage for participants shall be properly lit and free from obstruction;
- (e) 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 while under hypnosis, unless specifically told to do so as a part of the performance;

Treatment of audience and subjects

- (f) 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 so 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, are under the influence of alcohol or other drugs or are pregnant."

- (g) 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 onto the 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;
- (h) 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;

Prohibited actions

- (i) The performance shall be so conducted as not to be likely to cause offence to any person in the audience or any hypnotised subject;
- (j) The performance shall be so conducted as not to be 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);
- (k) The performance shall not include giving hypnotherapy or any other form of treatment;

Completion

- (l) All hypnotised subjects shall remain in the presence of the hypnotist and in the room where the performance takes place until all hypnotic suggestions have been removed;
- (m) 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 shall confirm with each of them that they feel well and relaxed (the restriction on post-hypnotic suggestions does not prevent the hypnotist telling subjects that they will feel well and relaxed after the suggestions are removed);
- (n) The hypnotist shall remain available for at least 30 minutes after the show to help deal 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 appropriate person to treat anyone who is otherwise unwell.)

Authorised Access

- (o) Where...
 - (i) A constable; 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 may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.