

LICENSING ACT COMMITTEE

AUTHORISATION OF HYPNOTISM UNDER THE HYPNOTISM ACT 1952 (AS AMENDED) 15th July 2010

Report of the Head of Legal and Human Resources

PURPOSE OF REPORT

To update the Committee on the legal position with regard to the authorisation of performances of hypnotism, and to seek the Committee's views as to how it wishes to deal with the grant of such authorisations.

This report is public

RECOMMENDATIONS

- (1) That the Committee approve standard conditions, as appended to the report, for the performance of hypnotism under the Hypnotism Act 1952, and delegate to the Head of Legal and Human Resources and the Licensing Manager and any officers designated in writing by them, authority to authorise applications for hypnotism subject to such standard conditions.
- (2) That the Committee delegate to the Licensing Act Sub-Committees the determination of any application to vary the standard conditions, or any other authorisation application referred by the Head of Legal and Human Resources.
- (3) That the Monitoring Officer be requested to amend Sections 4 and 15 of Part 3 of the Constitution to reflect these delegations

1.0 Introduction

- 1.1 Prior to the Licensing Act 2003, hypnotism was regulated under the former public entertainment licences issued under the Local Government (Miscellaneous Provisions) Act 1982. Members may recall that at its meeting on the 28th September 2006, the Committee considered how to deal with consents in relation to a number of standard public entertainment licence conditions, which it was understood had transferred to the new premises licences under the Licensing Act 2003. These included hypnotism, and the Committee resolved that applications to hold hypnotism events at premises licensed under the Licensing Act 2003 should be delegated to the Licensing Sub-Committees.
- 1.2 The legal position on the transfer of public entertainment licence conditions to the new premises licences was complex. Further, the Licensing Act 2003 amended the Hypnotism Act 1952. It has recently come to light that in November 2006, LACORS

(Local Authorities Co-ordinators of Regulatory Services), issued guidance to the effect that as hypnotism is not a licensable activity under the Licensing Act 2003, conditions regulating hypnotism cannot be attached to a premises licence. Any authorisation can only be under the Hypnotism Act 1952 (as amended).

- 1.3 Under the Hypnotism Act 1952, 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 controlling authority has authorised that exhibition, demonstration or performance. Any authorisation may be subject to conditions. The controlling authority is the licensing authority under the Licensing Act 2003.
- 1.4 It is a criminal offence to give an exhibition, demonstration or performance of hypnotism without an authorisation, or to hypnotise any person under the age of 18.
- 1.5 There is no provision for a charge to be made for an authorisation.

2.0 Proposal Details

- 2.1 The Committee, therefore, needs to make arrangements for the granting of authorisations for hypnotism, noting that this is under the Hypnotism Act 1952 rather than under the former public entertainment licence conditions.
- 2.2 Officers have prepared comprehensive standard conditions (Appendix 1) which it is considered would be suitable to attach to any authorisation of hypnotism, and would recommend that the Committee delegate to the Head of Legal and Human Resources and the Licensing Manager and any officers designated in writing by them, authority to grant authorisations subject to these conditions.
- 2.3 Only if the applicant requested a variation of the standard conditions, or if the officers had concerns over a particular application, would it then be necessary for the application to be considered by a Licensing Act Sub-Committee of three members.
- 2.4 If Members are content with this approach, the Sub-Committee and officer delegations in Sections 4 and 15 of Part 3 of the Constitution would need to be amended accordingly.

3.0 Details of Consultation

- 3.1 There has been no consultation

4.0 Options and Options Analysis (including risk assessment)

- 4.1 Whilst the recommendations as set out above form the officer preferred option, it would be open to the Committee to require all applications for authorisations to be considered by a Sub-Committee. Applications for hypnotism are infrequent, but the need for a Sub-Committee hearing in every case would perhaps not be an efficient use of officer and member time, and could delay the grant of authorisations.
- 4.2 It is also open to the Committee to amend the proposed standard conditions.

5.0 Conclusion

- 5.1 The Committee's views are sought on the appropriate procedure for dealing with hypnotism authorisations.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The proposed standard conditions will protect the public attending hypnotism events.

The applicant's rights are protected in that an authorisation would not be refused without a hearing before a Sub-Committee.

FINANCIAL IMPLICATIONS

None directly arising from this report.

LEGAL IMPLICATIONS

The legal implications are included in the report.

BACKGROUND PAPERS

LACORS Guidance 24th November 2006

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