

## **Mission Statement**

To Improve the Quality of Life  
For Those Who Live and Work in The District

27 May 2010

Dear Councillor

You are hereby invited to a meeting of the Licensing Committee to be held in Committee Room 2, Civic Centre, Portholme Road, Selby on Monday 7 June 2010, commencing at 10:00 am.

### **AGENDA**

**1. Apologies for Absence and Notice of Substitution**

To receive apologies for absence and notification of substitution.

**2. Disclosure of Interest**

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Section 117 of the Local Government Act 1972, and Sections 50, 52 and 81 of the Local Government Act 2000 and the Members' Code of Conduct adopted by the Council.

**3. Minutes**

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 10 May 2010 (pages 4 to 8 attached)

**4. Procedure**

To outline the procedure to be followed at the meeting (pages 9 to 10 attached).

**5. Chair's Address to the Licensing Committee**

**6. Authorisation of Hypnotism under the terms of the Hypnotism Act 1952 (As amended).**

Report of the Licensing Enforcement Officer (Pages 11 to 16 attached)

M Connor  
Chief Executive  
27 May 2010

**Disclosure of Interest – Guidance Notes:**

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.
- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

**[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].**

**Dates of Future Meetings of the Licensing Committee**

| <b>Date of Meeting</b> |
|------------------------|
| 7 June 2010            |
| 5 July 2010            |
| 2 August 2010          |

**Membership of the Licensing Committee  
10 Members**

| <b>Conservative</b>  | <b>Labour</b> | <b>Independent</b> |
|----------------------|---------------|--------------------|
| K Ellis              |               |                    |
| J Dyson              | B Marshall    | J McCartney        |
| P Mackay             | S Duckett     |                    |
| K McSherry           |               |                    |
| S Ryder              |               |                    |
| R Sayner (Chair)     |               |                    |
| D White (Vice Chair) |               |                    |

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SELBY DISTRICT COUNCIL

**MINUTES**

Minutes of the proceedings of a meeting of the Licensing Committee held on 10 May 2010 in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

|     |  |
|-----|--|
| 755 | Apologies  |
| 756 | Disclosure of Interest   |
| 757 | Minutes  |
| 758 | Procedure  |
| 759 | Chairs address to the Licensing Committee                      |
| 760 | Regulation of Lap Dancing and Other Sexual Entertainment Venue |
| 761 | Licensing Fees 2010/11   |
| 762 | Private Session  |
| 763 | Application for a Hackney Carriage License                     |
| 764 | Application for Removal of a Consent                           |

Present: Councillor R Sayner in the Chair

Councillors: Councillor Mrs D White, Councillor Mrs D Davies, Councillor J Deans, Councillor Mrs S Duckett, Councillor Mrs J Dyson, Councillor K Ellis, Councillor J McCartney, Councillor Mrs P Mackay and Councillor Mrs S Ryder.

Officials: Senior Solicitor, Licensing Enforcement Officer and Committee Services Officer.

Public: 0

Press: 0

755 **Apologies for Absence and Substitution**

Apologies were received from Councillor Mrs K McSherry and Councillor B Marshall.

Substitutes were Councillor J Deans (*for Councillor Mrs K McSherry*) and Councillor Mrs D Davies (*for Councillor B Marshall*).

756 **Disclosure of Interest**

There were none.

757 **Minutes**

**Resolved:**

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 12 April 2010 be confirmed as a correct record and be signed by the Chair.**

758

**Procedure**

The Procedure was noted.

759

**Chair's Address to the Licensing Committee**

The Chair requested that ongoing training in the future for the members of the Licensing Committee be confirmed, to which the Senior Solicitor did.

760

**Regulation of Lap Dancing and Other Sexual Entertainment Venues**

Councillors received the report of the Licensing Enforcement Officer in respect of the adoption of the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009.

**Recommendation to Full Council:**

**That the Council adopts the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009.**

761

**Licensing Fees 2010/11**

Councillors received the report of the Licensing Enforcement Officer in which it was brought to the attention of the Committee that an objection had been received to the proposed Hackney Carriage and Private Hire fees for 2010/11.

Mr Brian Dennis attended the meeting to present his objections to the Licensing Committee in addition to the submission of his letter, received by Selby District Council on 15<sup>th</sup> March 2010 (previously circulated within the report).

Mr Dennis questioned the Licensing Committee's authority to deal with the issue. He then outlined his grounds for challenging the fees;

- i) The tests for the fitness of Hackney Carriages and Private Hire Vehicles are not carried out at an approved Ministry of Transport testing station, making any charges to the vehicle driver unlawful.
- ii) That it was unfair to issue members of the Hackney Carriage trade with a Direct Debit mandate for personal checks when no other Selby District Council staff are required to pay for this or subject to regular checks.
- iii) That the authority to make all licensing decisions should be made by the Chief Executive of the council and it was therefore unlawful that any licensing authority be carried out by the Licensing Enforcement Officer or the Licensing Committee members.
- iv) That the Council was acting unlawfully by issuing number plates to vehicles that did not correspond with the number of the licence openly displayed on the carriage in question.

Having finished putting his arguments forward to the Committee Mr Dennis left the meeting, declining the Chair's request to complete the procedural process, remain for questioning and a resolution to the issue.

In his absence the Licensing Enforcement Officer responded systematically to the arguments put forward for the information of the committee members;

- i) It was explained that the council use an approved and certified MOT centre.
- ii) The Direct Debit mandate is a reference to the Driving License Mandate introduced by the council on the 1<sup>st</sup> July 2009. This covers the cost of criminal checks made against their driving licenses to protect the health and safety of the public and would not be applicable to any other staff that do not transport the public in their line of work.
- iii) This point is dealt with in 4.7 of the previously circulated report.
- iv) The Licensing Enforcement Officer explained that when Local Authority Licensing vehicles have been damaged they are issued with a temporary license plate for the period of repair and to produce duplicate licence plates for each damaged vehicle is beyond the financial resources of the council.

**Resolved: That;**

- **The Licensing Committee confirms that the original proposal for an increase in Hackey Carriage and Private Hire fees is to remain; and**
- **The date upon which they are to take effect is 10 May 2010**

762

### **Private Session**

**That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of the new Schedule 12 (A) of the Local Government (Access to information) (Variation) Order 2006.**

763

### **Application for a Hackney Carriage Licence**

Councillors received the report of the Licensing Enforcement Officer for the grant of a Hackney Carriage Licence for a Ford Mondeo, a vehicle not fully accessible to the disabled.

The Licensing Enforcement Officer outlined the details of the case.

The driver concerned outlined his reasons for the application.

Councillors considered the application against the Council's guidelines on hardship and resolved to grant a licence for a vehicle, which was not fully accessible to the disabled.

**Resolved:**

**That the application for a Hackney Carriage Licence for a vehicle not accessible to the disabled be granted on the grounds of financial hardship.**

764

### **Application for Removal of a Consent Street**

Councillors received the report of the Licensing Enforcement Officer in respect of Full Councils request for the Licensing Committee to further consider the decision of re-designating the register of consent streets upon which the Council allows street trading to operate in accordance

with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 in order to remove Market Place, Selby from the list.

The Licensing Enforcement Officer outlined details of the case and the Committee received further legal advice.

The Committee considered the decision and the expanded legal advice and also sought clarification on the implications of their previous recommendation. Councillors also confirmed with the Licensing Enforcement Officer that monitoring of fast food vendors operating on the Market Place was possible to ensure standards of upkeep were sustained.

**Resolved: That;**

- **The Licensing Committee refuse the recommendation to pass a resolution to remove the designation of Market Place, Selby as a consent street from the list of consent streets; and**
- **The designation of Market Place, Selby remains as a consent street on the list of consent streets.**

The meeting closed at 11:35am



## **LICENSING COMMITTEE**

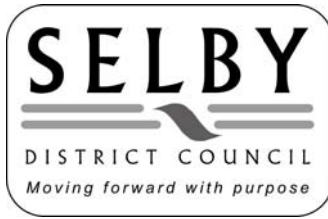
### **PROCEDURES TO BE FOLLOWED**

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Members of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
  - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
  - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
  - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
  - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
  - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
  - ii) The District Solicitor will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
  - iii) The Chair will introduce Members of the Committee.
  - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, press and public, will then be asked to withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, press and public, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Committee Section will inform in writing to the applicant the decision of the Licensing Committee.



## Public Session

Agenda Item No: 6

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**Title:** Authorisation of Hypnotism under the terms of the Hypnotism Act 1952 (As amended).

**To:** Licensing Committee

**Date:** 07 June 2010

**Service Area:** Customers and Business Support

**Author:** Tim Grogan

**Presented by:** Tim Grogan

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### 1. Purpose of Report

- 1.1 The purpose of this report is to provide information regarding the authorisation of hypnotism as a means of entertainment, and recommends the adoption of conditions to be applied to any authorisation given by the Council as controlling authority.

### 2. Recommendation(s)

- 2.1 **It is recommended that the staging of hypnotism as a means of entertainment be subject to the conditions set out in background documents Appendix A (attached).**

### 3. Executive Summary

- 3.1 To enable hypnotism as a form of entertainment to be staged in accordance with the Hypnotism Act 1952 authorisation is required from the Local Authority. The adoption of the conditions recommended in Appendix A will protect the welfare and safety of those attending.

#### **4. The Report**

- 4.1 Formerly, the Local Government (Miscellaneous Provisions) Act 1982 regulated the performance of hypnotism under the authorisation of a Public Entertainment Licence. On 24<sup>th</sup> November 2005 Public Entertainment Licences were replaced by Premises Licences issued under the Licensing Act 2003. New guidance has been recently received confirming that the new Premises Licences cannot be issued to permit the performance of hypnotism because hypnotism is not a regulated entertainment. It is therefore necessary for the Council to make provisions to be able to accept applications for authorisation to do so under the Hypnotism Act 1952 (as amended).
- 4.2 Conditions cannot be attached to a Licensing Act Premises Licence nor can a Temporary Events Notice be used for a performance of hypnotism.
- 4.3 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 authority has authorised that exhibition, demonstration or performance. Any authorisation may be subject to conditions.
- 4.4 For information, 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. There is a maximum fine of £1000.
- 4.5 It is also an offence to hypnotise any person under the age of 18 years.
- 4.6 There is no provision in the Hypnotism Act 1952 to charge for an authorisation.
- 4.7 The Licensing Department are unaware of any premises having offered hypnotism. Indeed, there is no evidence of any hypnotists who have performed entertainment of this nature within the Selby district. As a consequence it has not been possible to consult with local providers. The conditions attached to this report have been compiled after discussions with other licensing departments and responsible authorities.

#### **5. Financial Implications**

- 5.1 There are no financial implications as a consequence of there being no provision in the Hypnotism Act 1952 to charge for an authorisation.

#### **6. Link to Corporate Plan**

6.1 The additional safeguards proposed in this report will help support the Council's strategic theme of putting customers first.

## **7 How Does This Report Link to Council's Priorities?**

7.1.1 This report will contribute towards acknowledging the priority of safer communities.

## **8 Impact on Corporate Policies**

8.1 **Service Improvement** **No Impact**

8.2 **Equalities** **No Impact**

8.3 **Community Safety and Crime** **Impact**  
The Council as controlling authority needs to adopt conditions that can be attached to any application made under the hypnotism Act 1952 (as amended).

8.4 **Procurement** **No Impact**

8.5 **Risk Management** **Impact**  
That if an application is received the Council has no conditions to attach to an authorisation and thereby potentially compromise the safety and welfare of those attending such an event.

8.6 **Sustainability** **No Impact**

8.7 **Value for Money** **No Impact**

## **9 Background Papers**

9.1 A copy of the Hypnotism Act 1952 (as amended) is available in the Legal Department.

## 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 an authorisation.

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).