

Agenda

Licensing Committee

Date:	Wednesday, 25 October 2023 at 10:00am
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	<p>Councillor Sandra Pitman (Chairman) Councillor Viv Willder (Vice-Chairman)</p> <p>Councillors Frank Andrews, Mark Bamforth, Martin Evans, Susan Fazackerley MBE, Gail Goodman JP, Noreen Griffiths, Gavin Harrison, Karen Henshaw JP, Paul Hodgson, Cheryl Little</p>

	PROCEDURAL ITEMS:	PAGE
1	Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council’s Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the meeting held on 16 November 2022 as a correct record.	1
3	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 23(c).	1
	DECISION ITEMS:	
4	Statement of Licensing Policy	3 - 4
5	Cumulative Impact Assessment	5 - 20
6	Performance of Hypnotism	21 - 34

Contact: Democracy - Telephone: (01253) 658546 – Email: democracy@fylde.gov.uk

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<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

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DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF ENVIRONMENTAL AND HOUSING SERVICES	LICENSING COMMITTEE	25 OCTOBER 2023	4
STATEMENT OF LICENSING POLICY			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of Lead Member for Social Wellbeing (Councillor Chris Dixon).

PURPOSE OF THE REPORT

The Councils Statement of Licensing Policy has been reviewed and updated and should now be consulted upon. The Committee will be asked to consider the Policy and recommend that a consultation period is undertaken with the results of that exercise being reported to the Licensing Committee in due course.

RECOVERABILITY

This decision is recoverable under section 7 of part 3 of the constitution.

RECOMMENDATION

1. That the Committee considers the report and requests Officers to commence a consultation process to introduce the updated Statement of Licensing Policy.

REPORT

1. The current Statement of Licensing Policy is due to be updated to reflect changes within the statutory guidance. The updated draft policy may be seen at appendix 1.
2. The Guidance issued under S182 of the Licensing Act 2003 states that the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:
 - the chief officer of police for the area;
 - the fire and rescue authority for the area;
 - each local authority's Director of Public Health in England (DPH)¹⁴ or Local Health Board in Wales for an area any part of which is in the licensing authority's area,
 - persons/bodies representative of local premises licence holders;
 - persons/bodies representative of local club premises certificate holders;
 - persons/bodies representative of local personal licence holders; and
 - persons/bodies representative of businesses and residents in its area

3. The Committee are therefore requested to consider the draft policy and recommend that a consultation exercise is commenced, the results of which are to be reported to a future meeting of the Licensing Committee.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

IMPLICATIONS	
Finance	No implications arising directly from the report.
Legal	No implications arising directly from the report.
Community Safety	No implications arising directly from the report.
Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

SUMMARY OF PREVIOUS DECISIONS
Full Council 14 th December 2015 Review of Statement of Licensing Policy

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
S182 Guidance to the Licensing Act 2003	August 2023	https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003

LEAD AUTHOR	CONTACT DETAILS	DATE
Chris Hambly	chris.hambly@fylde.gov.uk 01253 658422	13 th October 2023

Attached documents

App 1 – Draft Statement of Licensing Policy – to follow

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF ENVIRONMENTAL AND HOUSING SERVICES	LICENSING COMMITTEE	25 OCTOBER 2023	5
CUMULATIVE IMPACT ASSESSMENT			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of Lead Member for Social Wellbeing (Councillor Chris Dixon).

PURPOSE OF THE REPORT

A request has been received stating that, "A large number of Lytham residents are concerned regarding FBC's policy regarding licensing in Lytham. Particularly the area commencing with the Henry Street/Queen Street Junction and ending at the Clifton Street/Station Road Junction (The Area). The Area merits a Cumulative Impact Policy in similar manner to other towns where there is an abundance of Licensing Premises."

Section 5A of the Licensing Act 2003 prescribes the requirements for the introduction of such a Policy. The Committee will be requested to consider the request and determine whether to instruct Officers to commence a consultation, the results of which are to be reported in a subsequent report.

RECOVERABILITY

This decision is recoverable under section 7 of part 3 of the constitution.

RECOMMENDATION

1. That the Committee considers the report and determines whether to instruct Officers to commence a consultation process regarding the request for a Cumulative Impact Assessment in the specified area of Lytham, the results of which to be reported to a future meeting of the Licensing Committee.

REPORT

1. A request has been received by a Mr John Barker on behalf of some Lytham Residents for a Cumulative Impact Policy (CIA) for an area of Lytham, Lancs. The area requested is Henry Street/Queen Street Junction and ending at the Clifton Street/Station Road Junction (The Area). Further correspondence with the representative has confirmed the description to be "between the Green and Westby Street from Beach Street on the West and the Green and Westby Street to Station Road on the East side." The area is within Lytham West Ward.



2. [Section 5A of the Licensing Act 2003](#) deals with Cumulative Impact Policies and states at (1) " A licensing authority may publish a document ("a cumulative impact assessment") stating that the licensing authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts."
3. It is a requirement that when considering such a policy consultation is undertaken with:
 - a) the chief officer of police for the licensing authority's area,
 - b) the Fire and Rescue Authority for that area,
 - c) The Local Health Board for an area any part of which is in the licensing authority's area
 - d) Each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area
 - e) such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
 - f) such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
 - g) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority
 - h) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
4. When undertaking the consultation, the statutory consultees must be provided with :
 - a) the reasons why it is considering publishing a cumulative impact assessment.
 - b) a general indication of the part or parts of its area which it is considering describing in the assessment.
 - c) whether it considers that the assessment will relate to all relevant authorisations or only to relevant authorisations of a particular kind

5. The [Statutory Guidance](#) issued under S182 of the Licensing Act 2003 at 14.20 onwards provide further information in relation relating to the introduction of a CIP and comments at 14.9 that, "As noted above, there must be an evidential basis for the decision to publish a CIA. Local Community Safety Partnerships and responsible authorities, such as the police and the environmental health authority, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA. Information which licensing authorities may be able to draw on includes:
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - statistics on local anti-social behaviour offences;
 - health-related statistics such as alcohol-related emergency attendances and hospital admissions;
 - environmental health complaints, particularly in relation to litter and noise;
 - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
 - residents' questionnaires;
 - evidence from local and parish councillors; and
 - evidence obtained through local consultation.
6. The Guidance also helpfully provides the steps to be followed when publishing a CIP:
- Identify concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
 - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
 - If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
 - Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
 - Consult those specified in section 5(3) of the 2003 Act. As with consultations in respect of the licensing policy statement as a whole, it is for each licensing authority to determine the extent of the consultation it should undertake in respect of a CIA (subject to the statutory requirements).
 - For the purposes of the consultation provide the persons specified in section 5(3) with the following information:
 - Ø the reasons why it is considering publishing a CIA;
 - Ø a general indication of the part or parts of its area which it is considering describing in the assessment;
 - Ø whether it considers that the assessment will relate to all premises licence and club premises certificate applications and variation applications, or only to those of a particular kind described.
 - Subject to the outcome of the consultation, include and publish details of the CIA, including the evidence in support of the assessment and the particular kinds of premises the assessment relates to. Licensing authorities are not restricted to using general terms such as on-trade, off-trade and late-night refreshment providers, and can apply their own descriptions such as vertical-drinking bars and night clubs if appropriate.
 - Summarise the licensing authority's opinion in light of the evidence of cumulative impact (or any revision to an existing opinion) in the licensing policy statement and explain within the policy statement how the authority has had regard to any CIAs it has published under section 5A. The summary within the licensing policy statement should include, but is not limited to: the nature of the problems identified and the evidence for such problems; the geographical extent of the area covered by the assessment; the types of premises described in the assessment; and the types of applications for which

it would likely be inconsistent with the licensing authority's duty to promote the licensing objectives to grant.

7. Members may wish to note that a CIA does not displace the rule that in the absence of any relevant representation in relation to an application, a licence is automatically granted. Secondly, that the power is discretionary, and that there is no statutory trigger to require one to be conducted.
8. The introduction of a CIA does not mean that new licences are automatically refused if there are relevant representations. Statutory guidance makes it clear that each application must still be considered on its merits. The existence of a CIA effectively sets up a presumption that new licence applications will be refused (if there is a relevant representation), but an applicant may seek to rebut that presumption at a panel hearing.
9. For members information, a copy of the request is included at appendix 1 and information from Lancashire Constabulary regarding crime and anti-social behaviour in the area at appendix 2.
10. The Committee is therefore requested to note the report and consider instructing Officers to commence a consultation exercise regarding the introduction of a CIA in Lytham, the results of which are to be reported to a future meeting of the Committee. Should members approve the request, the exercise will be a significant piece of work and funding may be requested for an external professional to conduct the exercise on the Licensing Authority's behalf.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	√
Environment – To deliver services customers expect	√
Efficiency – By spending money in the most efficient way	√
Tourism – To create a great place to live and visit	√

IMPLICATIONS	
Finance	There is insufficient resource within the Licensing Team currently to undertake a full consultation exercise and it is likely that financial support would be requested to conduct the exercise.
Legal	As contained within the report.
Community Safety	Current statistics relating to crime and ASB are included in the report.
Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

SUMMARY OF PREVIOUS DECISIONS
There are no previous decisions relating to this matter.

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
S182 Guidance to the Licensing Act 2003	August 2023	https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003

LEAD AUTHOR	CONTACT DETAILS	DATE
Chris Hambly	chris.hambly@fylde.gov.uk 01253 658422	13 th October 2023

Attached documents

App 1 – Request and Supporting Information

App 2 – Lytham Crime and ASB statistics

Chris Hambly

From: chris.hambly@fylde.gov.uk
To: Ian Williamson
Subject: RE: Lytham Licensing

From: [REDACTED]
Sent: Wednesday, September 20, 2023 12:36 PM
To: Ian Williamson <ian.williamson@fylde.gov.uk>
Cc: Ian Curtis <ian.curtis@fylde.gov.uk>; Cllr Mark Bamforth <Mark.bamforth@fylde.gov.uk>; Cllr Kelly Farrington <Kelly.Farrington@fylde.gov.uk>
Subject: Lytham Licensing

External Email - Use Caution

Dear Mr Williamson,

I understand from Ian Curtis that he has copied you into the correspondence below. In case you have not received the attachments these are attached again with my CV.

A large number of Lytham residents are concerned in regard to FBC's policy regarding licensing in Lytham. Particularly the area commencing with the Henry Street/Queen Street Junction and ending at the Clifton Street/Station Road Junction (The Area). The Area merits a Cumulative Impact Policy in similar manner to other towns where there is an abundance of Licensing Premises. Blackpool and Preston among other towns (see Oxford attachment) have put in place 'The Cumulative Impact Policy' to restrict new Licensing applications and variations thereof.

I believe a consultation process should be started forthwith by the Council. There is already a substantial body of evidence to support a consultation.

We can assist in due course with encouraging residents to participate. This needs to start immediately as the overall licensing policy is under review and the Cumulative Impact Policy should be considered for the Area. Indeed Ian Curtis says below 'that the effect of the legislation and the relevant government guidance is that there needs to be a rigorous, evidence-based process, involving all relevant stakeholders to put one in place'

There has been an alleged murder in Clifton Square recently; Many residents believe there are:

- 1 breaches of planning law in or about the square;
- 2 an increase in crime and anti social behaviour in the area;
- 3 cocaine/ drug use in the area
- 4 breaches of the Licensing objectives;
- 5 live music is regularly played in public spaces ,conservation areas and residential areas causing a public nuisance;
- 6 illegal , unsafe, dangerous and unhealthy storage of waste.

The consultation should commence immediately.

I would appreciate your comments as soon as possible.

Kind regards,
John



From: Ian Curtis <ian.curtis@fylde.gov.uk>
Sent: Tuesday, September 19, 2023 9:27 AM
To: [Redacted]
Cc: [Redacted] Cllr Mark Bamforth <mark.bamforth@fylde.gov.uk>; Cllr Kelly Farrington <Kelly.Farrington@fylde.gov.uk>; Ian Williamson <ian.williamson@fylde.gov.uk>
Subject: RE: Meeting

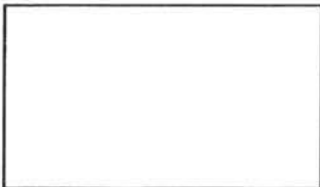
Dear John

I have copied my colleague Ian Williamson on this correspondence, as it is his team that have responsibility for consulting on and reviewing the council’s licensing policy. I don’t know whether a cumulative impact policy for Lytham has been actively considered at any time. But I can advise that the effect of the legislation and the relevant government guidance is that there needs to be a rigorous, evidence-based process, involving all relevant stakeholders to put one in place. The decision to put a cumulative impact policy in place is one that can be (and has been in other areas) challenged in law, so (rather like the local plan in relation to town and country planning), the council does not have a free hand to do just what the public or councillors may want it to do.

Ian: For background, John and his colleagues are residents of Lytham who, with community support, are advocating for the establishment of a parish council in Lytham.

Regards

Ian Curtis
Head of Governance



p. 01253 658506
m: ian.curtis@fylde.gov.uk

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From: [Redacted]
Sent: 18 September 2023 10:43
To: Ian Curtis <ian.curtis@fylde.gov.uk>
Cc: [Redacted] Cllr Mark Bamforth <mark.bamforth@fylde.gov.uk>; Cllr Kelly Farrington <Kelly.Farrington@fylde.gov.uk>
Subject: FW: Meeting

Dear Ian,

I thought you might like to see my email to Kelly Farrington re Lytham Licensing.

I anticipate you have already taken note of the Cumulative Impact Policy in your plans for Fylde (particularly Lytham).

There seems to be a general view by Lytham Residents that there are already sufficient licencing Premises in Lytham and hopefully this will be reflected in the 5 year Licencing Plan. The Cumulative Impact Policy seems to be an excellent way of dealing with Lytham.

I would appreciate your observations

Kind regards,

John



From [Redacted]

Sent: Thursday, August 31, 2023 12:30 PM

To: 'Cllr Kelly Farrington' <Kelly.Farrington@fylde.gov.uk>; [Redacted] Cllr Mark Bamforth' <Mark.bamforth@fylde.gov.uk>

Subject: RE: Meeting

Good morning Kelly,

We are not involved in any plans for St Annes except in any way that Lytham is effected until we have a Town Council for Lytham. We are keen to have the name 'Town' not 'Parish' as the latter seems for many to have religious leanings!

You indicated that you were on the Licensing committee/group at FBC. As discussed it would be very good if FBC could incorporate into their plan a 'Cumulative Impact Policy' (CIP) for areas such as Lytham Centre. Both Blackpool and Preston have one and I attach extract from Oxford City. The CIP has the effect of creating a rebuttable presumption that any licence or variation thereof will be refused. (see the extract attached).

Certainly Lytham centre has sufficient liquor licences and it makes it easier for the authorities to control alcohol abuse. Hope you can take this forward into the FBC 5 year licencing Plan.

Best regards,

John

From: Cllr Kelly Farrington <Kelly.Farrington@fylde.gov.uk>

Sent: Thursday, August 31, 2023 10:53 AM

To: [Redacted] Cllr Mark Bamforth <Mark.bamforth@fylde.gov.uk>; [Redacted]

Subject: Re: Meeting

Thanks Paul,

It was good to meet you both too. I am being won over on the idea of a Parish Council after talking to you both.

In terms of the St Annes plans, how are you both involved in that? I forgot to ask.

thanks,

Kelly

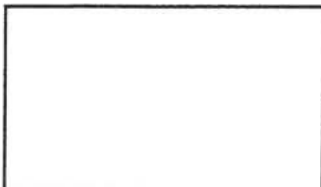
Cllr Kelly Farrington

Elected member for Lytham East

Fylde Borough Council

Kelly Farrington

**Elected Member
Lytham East Ward
Independent Group**



p:
m:
Kelly.Farrington@fylde.gov.uk

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From: [REDACTED]
Sent: 30 August 2023 09:42
To: Cllr Mark Bamforth <Mark.bamforth@fylde.gov.uk>; Cllr Kelly Farrington <Kelly.farrington@fylde.gov.uk>; [REDACTED]
Subject: Meeting

External Email - Use Caution

Good Morning

Just a short note on behalf of John and I to thank you both for the time you gave us yesterday discussing the opportunities and benefits of a Town Council for Lytham.

The discussions were wide ranging and ,we hope,interesting and we look forward to further meetings with interested councillors.

We await your email Mark to assist us in setting up further meetings

Regards



This email has been scanned for spam & viruses. If you believe this email should have been stopped by our filters, [click here](#) to report it.

The **Cumulative Impact Policy** is a tool for licensing authorities to limit the growth of licensed premises in a problem area. It was introduced under section 182 of the Licensing Act 2003¹. The policy is used to control the density of licensed premises in a particular area and is set out in the statutory guidance issued under section 182 of the Licensing Act 2003¹.

The policy is applied when a licensing authority receives relevant representations from a responsible authority or interested party on the potential cumulative impact of the grant of an application for a license in question¹. Responsible authorities under the Licensing Act 2003 include (but are not limited to) police, fire authorities, health and safety authorities, local planning authorities, environmental health, bodies responsible for protecting children from harm and any licensing authorities (other than the relevant licensing authority) in whose area a premises is situated¹.

Before implementing a Cumulative Impact Policy, a licensing authority will usually conduct a consultation exercise and consider the effect that additional premises will have on the cumulative impact¹. The statutory guidance governing Cumulative Impact Policies will be more focused on local needs and easier for licensing authorities to implement. This will reduce the evidential requirement on licensing authorities and give greater weight to the view of local people as the licensing authority will not be constrained by the requirement to provide detailed additional evidence where such evidence is unavailable¹.

I hope this helps!

Council re-adopts Cumulative Impact Policy

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This decision follows on from a licensing policy and CIA consultation which took place at the end of last year

Published: 23 March 2022 by Associate Solicitor, Suraj Desor

Oxford City Council have re-adopted a Cumulative Impact policy following a recent statement of licensing policy and Cumulative Impact Assessment (CIA) consultation at the end of last year. The Cumulative Impact policy covers the area of Oxford city centre and east Oxford (around Cowley Road) and is now in effect.

As you may recall from our previous eNews, Oxford City Council's licensing policy was due for review and publication in February 2021, and the council took the pragmatic approach of re-adopting the existing licensing policy but removing the Cumulative Impact policy as no realistic assessment of cumulative impact was possible at that time due to the disruption as a result of the pandemic. Now that the CIA has been undertaken the Council is of the opinion that based on a review of the evidence, the cumulative effect of the number of licensed premises and club premises certificates within the city centre and the East Oxford area is such that is likely that the granting of further licences or material variations to licences (such as extension to hours for licensable activities permitted on licences) would be inconsistent with the authority's duty to promote the licensing objectives. A further CIA must be undertaken by the Council within three years to ensure the evidence and data still supports the retention of the Cumulative Impact policy.

The net effect of the reintroduction of the Cumulative Impact policy is that there is a rebuttable presumption that applications for new premises licenses or club premises certificates or material variations to these within these two areas will normally be refused, where valid relevant representations are received, unless an applicant can demonstrate that the operation of the premises will not add to the existing cumulative impact already being experienced within the area – which is an additional, at times challenging, hurdle for applicants to overcome.

Visit our Cizapp function here <https://www.cizapp.co.uk/> (<https://www.cizapp.co.uk/>) to see if your premises falls within one of the areas covered by the Cumulative Impact Policy or alternatively you can view the full updated Statement of Licensing Policy and maps on the Council's website.

Chris Hambly

From: [REDACTED]
Sent: 26 September 2023 11:22
To: Chris Hambly
Cc: [REDACTED]
Subject: RE: Cumulative Impact Policy

External Email - Use Caution

Dear Chris,

Thank you for your email.

[REDACTED] will represent a number of residents at the Licensing Committee and hopefully you will let [REDACTED] and me know in due course, and with plenty of notice, the date of the proposed meeting.

Kind regards,
John

[REDACTED]

From: Chris Hambly <chris.hambly@fylde.gov.uk>
Sent: Thursday, September 21, 2023 2:51 PM
[REDACTED]
Subject: Cumulative Impact Policy

Good afternoon, I have been forwarded your request in relation to a Cumulative Impact Policy (CIP's) for an area of Lytham.

S5A of the Licensing Act 2003 introduced CIP's and chapter 14 of the Guidance Issued under S182 of the Licensing provides further information and the process to be followed when considering one. As such I propose to submit a report to the Licensing Committee informing them of the request and then progress as per their instruction. The Licensing Committee meets on an ad hoc basis so I will make a request and inform you when the date has been arranged.

For the purposes of my report, please could you provide some information as to you who you representing? Is it a number of residents or a more formal arrangement?

Thanks
Chris

Chris Hambly
Principal Officer (Health and Safety/Licensing)



p 01253 658422
m: chris.hambly@fylde.gov.uk

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Lytham Town Centre

Crime and ASB in the below bounded area from 01/09/22 to 31/08/23.

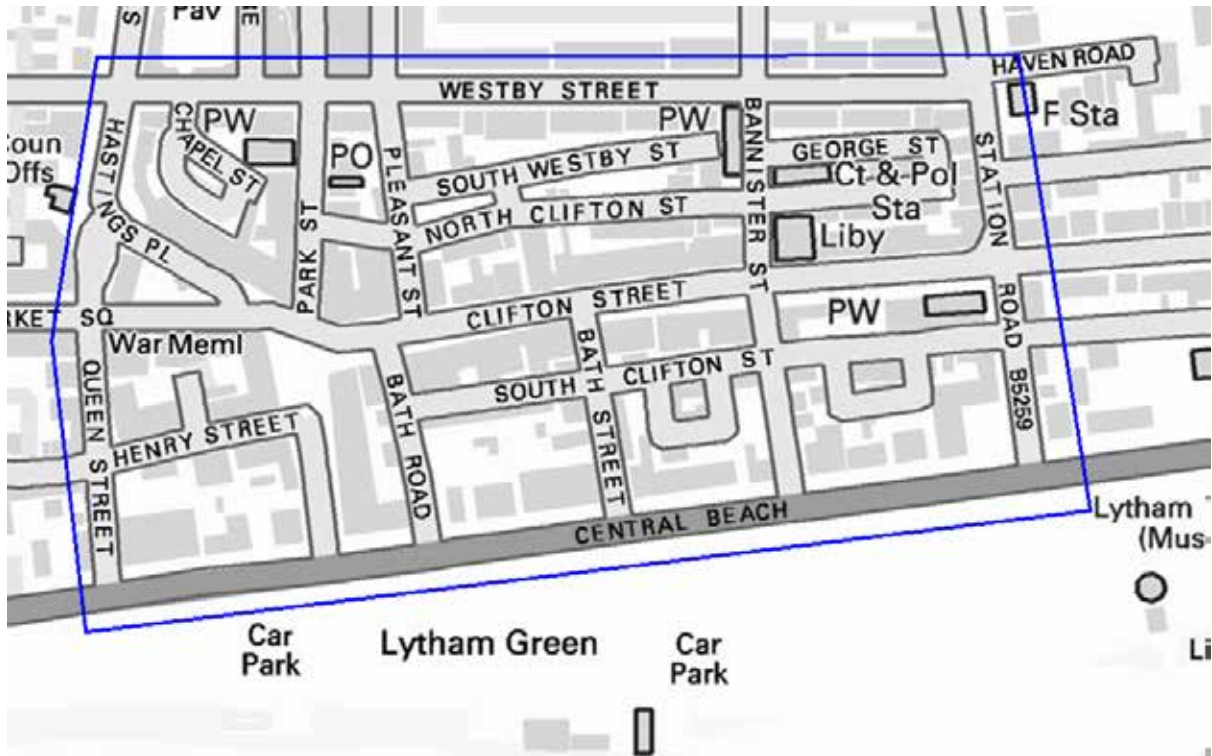
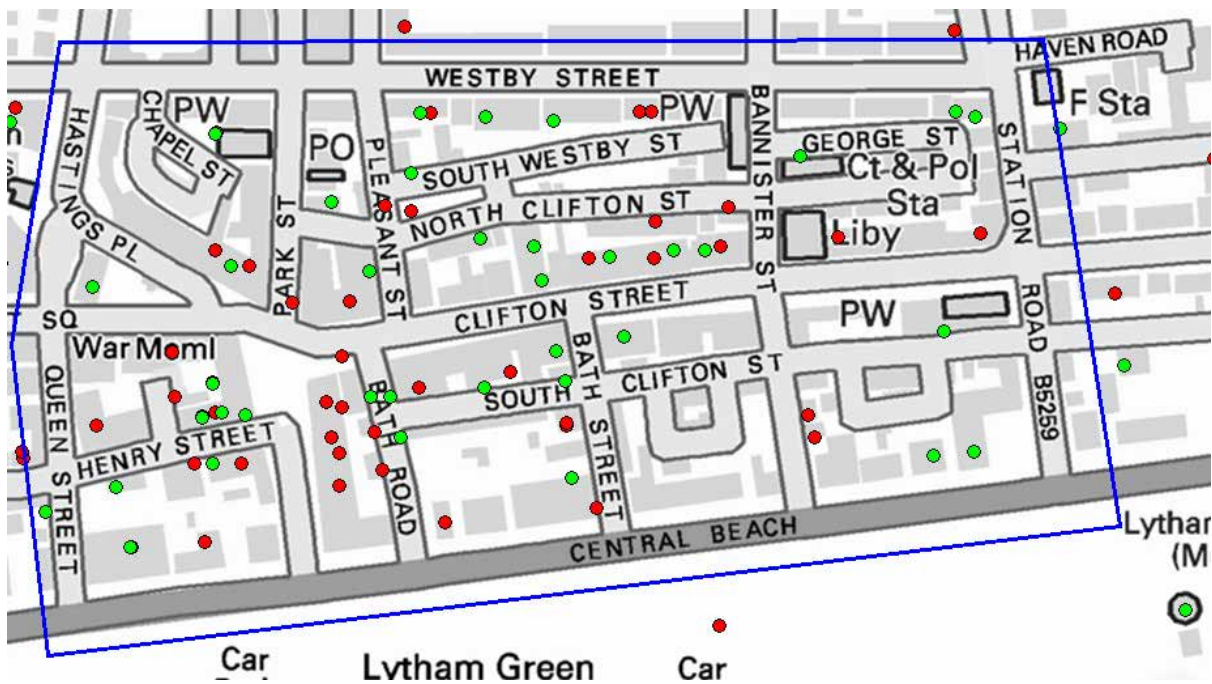


Image below shows the crime (red) and ASB (green) in the area.



The below tables show the breakdown of offences during the 12 month period.

Crime Group	Number of offences
Arson And Criminal Damage	9
Burglary	3
Drug Offences	3
Possession Of Weapons	1
Public Order Offences	3
Robbery	1
Theft	32
Vehicle Offences	5
Violence Against the Person	40
Total	97

Crime class	Number of offences
Assault with Injury	9
Assault with Injury on a Constable	2
Assault without Injury	19
Burglary – Business and community	3
Criminal Damage To Other Buildings	4
Criminal Damage To Vehicles	2
Harassment	4
Interfering with a Motor Vehicle	1
Malicious Communications	3
Manslaughter	1
Other Criminal Damage	3
Other Theft or Unauthorised Taking	9
Possession of Article with Blade or Point	1
Possession of Controlled Drugs (Cannabis)	1
Possession of Controlled Drugs excluding Cannabis	1
Public Fear Alarm or Distress	3
Robbery of Personal Property	1
Shoplifting	20
Stalking	1
Stealing Motor Vehicles OR UTMV	2
Theft from the Person	2
Theft from Vehicle	2
Theft of Pedal Cycle	1
Trafficking in Controlled Drugs	1
Wounding	1

Anti-Social Behaviour

Class	Number
Nuisance	42
Personal	18
Total	60

Characteristic of ASB – please note that keywords are used to highlight these issues, and one incident may have more than one characteristic.

Characteristic	Number
Alcohol	9
Youth	17
Moto	1
Neighbour	9
Noise	16

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF ENVIRONMENTAL AND HOUSING SERVICES	LICENSING COMMITTEE	25 OCTOBER 2023	6
PERFORMANCE OF HYPNOTISM			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

RELEVANT LEAD MEMBER

This item is within the remit of Lead Member for Social Wellbeing (Councillor Chris Dixon).

PURPOSE OF THE REPORT

The Licensing Team have received an application seeking consent for a performance of hypnotism to take place at The Office, St Annes Road West, St Annes on the 26th October 2023.

By virtue of section 2(3A) of the Hypnotism Act, any function conferred on a licensing authority by that act is a licensing function for the purposes of section 7 of the Licensing Act 2003. Section 7 delegates all licensing functions to the Licensing Committee. The Committee is therefore asked to determine request.

RECOVERABILITY

This decision is not recoverable because it relates to:

- A decision relating to the determining of any approval, consent, license, permission or registration

RECOMMENDATION

1. That the Committee considers the report and determines whether to authorise the performance of hypnotism and if appropriate, attach the conditions in appendix 2 to the permission.

REPORT

1. A request has been received from Ian Dee for consent for an exhibition, demonstration of performance of hypnotism on the 26th October 2023. The request may be seen at appendix 1.
2. Any exhibition, demonstration or performance of hypnotism (as defined in the Hypnotism Act 1952) on any person requires the written consent from the local authority. Hypnotism for the purpose of this application 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.
3. The Licensing Authority may impose such conditions as it may see fit on any consent given. However there is guidance in the form of Home Office Circular 39/1996, which suggests the basis of any hypnotism conditions which may be seen at appendix 2.

4. Lancashire Constabulary have confirmed they have no objections to the request and the Committee is therefore to determine the application and if appropriate attach conditions in line with the Home Office Circular.

CORPORATE PRIORITIES	
Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

IMPLICATIONS	
Finance	No implications arising directly from the report.
Legal	No implications arising directly from the report.
Community Safety	No implications arising directly from the report.
Human Rights and Equalities	No implications arising directly from the report.
Sustainability and Environmental Impact	No implications arising directly from the report.
Health & Safety and Risk Management	No implications arising directly from the report.

SUMMARY OF PREVIOUS DECISIONS
There are no previous decisions relating to this matter.

BACKGROUND PAPERS REVELANT TO THIS ITEM		
Name of document	Date	Where available for inspection
Home Office Circular 39/1996	1996	Attached

LEAD AUTHOR	CONTACT DETAILS	DATE
Chris Hambly	chris.hambly@fylde.gov.uk 01253 658422	13 th October 2023

Attached documents

App 1 – Request for Hypnotism Performance

App 2 – Home Office Circular 39/1996



Hypnotism Act 1952 (as amended) Please complete in **BLOCK CAPITALS** and **BLACK INK**

Application for consent for a exhibition, demonstration or performance of Hypnotism

Name of the Hypnotist	Ian Dee	
Address of Hypnotist	[REDACTED]	
Contact number	[REDACTED]	

Name of Venue	Bolton Wanderers Football Club
Date	27th August 2023.
Description of Act	Hypnosis Show
Contact Number	[REDACTED]

Name of Venue	The White Horse Hotel Rhoolt.
Date	2nd September 2023.
Description of Act	Hypnosis Show
Contact Number	[REDACTED]

Name of Venue	The Crossville Club, Harber View, Glan Y Mor Rd
Date	Llandudno Junction
Description of Act	Hypnosis Show
Contact Number	LL31 9RU


Details of the exhibition, demonstration or performance	
Where is the exhibition, demonstration or performance of hypnotism to take place?	The Office 18:20 St Annes Road Lytham St Annes FY18 1SB
When is the exhibition, demonstration or performance of	26th October 2023

hypnotism to take place? Please give date(s) and time(s)	26th October 2023	20.30pm
Please describe the nature of the proposed exhibition, demonstration or performance of hypnotism		
If the performance includes hypnotising members of the public, will minders stay with hypnotised subjects during the show including the interval?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Is the Hypnotist providing a minder for each hypnotised subject?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If the answer to the above is "no", how many hypnotised subjects will a minder supervise?	I will be with the volunteers at all times The show will have 6 volunteers.	
Has the Hypnotist ever been refused or had withdrawn a consent for hypnotism by any licensing authority?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If the answer to the above is "yes" please give details		
Has the Hypnotist ever been convicted of an offence under the Hypnotism Act 1952?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If the answer to the above is "yes" please give details		
Has the Hypnotist ever been convicted of an offence involving the breach of a condition regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the Hypnotist a member of any professional body relating to Hypnotism?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If the answer to the above is "yes" please give details	Federation of Ethical Stage Hypnotists.	
Has the Hypnotist ever been barred from the Federation of Ethical Stage Hypnotists or the European Guild of Professional Stage Hypnotists or any other similar body?	No	
If the answer to the above is "yes" please give details		

I/we have read and understood the Council's licence conditions and agree to comply with them at all times.

I have enclosed references from previous premises or a suitable reference from a recognised body

I also confirm that I have a copy of the Council's licence conditions.

Signed (Hypnotist)	Signed (Individual responsible for organising performance)
	
Date	9th September 2023



HOME OFFICE

Constitutional & Community Policy Directorate
Liquor, Gambling and Data Protection Unit
Room 1178, 50 Queen Anne's Gate,
London SW1H 9AT

Direct Line 0171-273 3668
Facsimile 0171-273 3205

Your reference:

Our reference: ENT/96 469/2/9

5 August 1996

The Chief Executive of District Councils in England
The Chief Executive of County & County Borough Councils in Wales
The Chief Executive of London Borough Councils
The Chief Executive of the Isle of Wight Council
The Town Clerk of the City of London
The Chief Officer of Police in England and Wales

HOME OFFICE CIRCULAR NO: 39/1996
STAGE HYPNOTISM: REVIEW OF THE HYPNOTISM ACT 1952

This circular advises local authorities of the outcome of the Home Office's review of the Hypnotism Act 1952 and sets out revised model conditions which authorities are encouraged to attach to licences for public performances of stage hypnotism.

Background

2. On 12 December 1994 the House of Commons held an adjournment debate to discuss public and parliamentary concern about alleged harm suffered by some participants in public performances of stage hypnotism. This followed a period when several cases of alleged harm had received considerable media attention. The cases concerned both physical and psychological effects. At the end of the debate the then Home Office Minister, Mr Michael Forsyth, announced that a review was to be undertaken into the workings of the Hypnotism Act 1952. The review would examine evidence of possible harm to people taking part in public entertainments involving hypnotism and consider the appropriateness of the present regime of control that the Act provides, including existing arrangements for enforcement.

3. The review of medical evidence and available research literature was carried out by a panel of experts who were nominated by the British Psychological Society and the Royal College of Psychiatrists. The panel members were not experts in hypnosis but were appointed on the strength of their professional expertise in the evaluation of clinical evidence and research literature.

4. The Home Office issued a questionnaire to all local authorities in England and Wales in March 1995 which sought information about current licensing practice (eg, whether separate authority is required for each performance and whether conditions are imposed), the numbers of performances taking place and the extent to which problems have been encountered. Almost 300 (over 70%) of the authorities replied. The Scottish Office conducted a similar exercise and received a further 51 replies.

5. Publication of the expert panel's report was announced in Parliament on 7 November 1995. The panel concluded that there was no evidence of serious risk to participants in stage hypnosis, and that any risk which does exist is much less significant than that involved in many other activities. They considered that the small potential risk which does exist could be alleviated through applying clearer conditions to the regulation of performances and providing more information to audiences to enable them to make an informed choice before deciding whether to participate.

6. On 18 December 1995 the Home Office issued a consultation paper which proposed how the recommendations of the expert panel and the issues raised by local authorities might best be addressed, and included draft revised model conditions.

7. We received 39 responses direct from stage hypnotists, local authorities and other interested parties. In addition, the Association of District Councils and the Association of Metropolitan Authorities provided summaries of responses received from their members.

Changes which would require legislation

8. Some of the issues arising from the review could only be addressed through primary legislation. These are set out at paragraphs 9 - 13 below. There is no immediate prospect of legislation to amend the 1952 Act, but we have indicated those changes which we consider potential candidates for legislation when an opportunity arises. In that event, any additional burden or cost thereby imposed would have to be justified under a formal process of compliance cost and risk assessment.

Local authority charges

9. There was general agreement in the responses to the consultation paper that local authorities outside London should be able to charge a fee for granting approval for stage hypnotism performances under the 1952 Act (such provision already exists for London authorities). It was regarded as inequitable that where applicants do not hold a public entertainments licence (PEL) the local authority has to meet the administrative and enforcement costs of licensing a commercial event from resources which might otherwise have been spent on local services.

10. Any future legislation would need to incorporate safeguards to prevent excessive charging. This might mean prohibiting further charges where the venue already held an annual PEL and limiting the charge for other approvals to no more than the cost of an occasional licence.

Powers of entry

11. The 1952 Act provides a power of entry for police constables where it is believed that a performance is taking place, or may be taking place, in contravention of the Act. There was strong support in the responses to the consultation paper for extending such a power to local authority officers. Whilst the Home Office would be willing to consider such a legislative amendment, we are content that a power of entry can effectively be provided for now by attaching a condition to that effect when approval is granted. Such a provision is included at Section 4(o) in the attached revised model conditions.

Private performances

12. There was some support for extending regulatory powers to cover private performances, but the vast majority of respondents thought the current legislation sufficient. Any attempt to regulate private performances would run into difficulties of definition as well as enforcement and, given the low level of risk identified by the review, we can see no justification for it.

Appeals procedures

13. There was also some support for incorporating a formal appeals procedure into the legislation, but most respondents supported development of local appeals procedures. The way in which local authorities process applications varies enormously, some being dealt with by officers under delegated powers whilst others are considered by councillors at committee meetings. For an appeals mechanism to be effective it needs to reflect these local procedures. One particular difficulty with an appeals mechanism is that unless the appeal can be heard and a judgement made relatively quickly it will often be too late to hold the performance whatever the outcome. Local authorities are encouraged to develop their own appeals procedures, taking due account of issues such as speed, the independence of the appeals body and cost.

Improvements to the present licensing arrangements

14. One particular criticism made in the consultation was that local authorities often have little information or understanding about the activity they are licensing. The organisations representing stage hypnotists have argued that hypnotists should be able to apply to a central licensing body for an annual performance licence.

15. Local authorities are responsible for all other public entertainments licensing and were opposed to losing control of stage hypnotism licensing. However, there was strong support for establishing a central information point to which local authorities could refer for information on performers whose acts had caused concern. This would save them time and resources when considering applications. Any such information point would need to incorporate adequate safeguards to ensure that information held was accurately and fairly recorded.

16. It has been suggested that either the Local Authority Co-ordinating Body on Food and Trading Standards (LACOTS) or The Local Government Licensing Forum might be able to provide this information. The Home Office is consulting those

organisations and the local authority associations about the feasibility of such a scheme. If a central information point is established details will be passed to authorities through the local authority associations.

Revised model conditions

17. The model conditions annexed to this circular incorporate a number of revisions to those included with the consultation paper issued on 18 December 1995. Our aim has been to keep administrative requirements to a minimum and to include only those conditions which are justified by the level of risk found by the review. It would be for individual local authorities to include additional conditions if they thought this necessary to meet local circumstances.

18. The main changes to the model conditions are as follows (the references to previous sections relate to the draft model conditions attached to the December 1995 consultation paper):

Sections 1 & 2: there is no reason why a local authority should require hypnotists to seek specific authority for all their stage performances, even where the venue holds a public entertainments licence (PEL). Local authorities are encouraged to allow stage hypnotism to take place under the PEL as long as the model conditions are adhered to and the authority is given adequate notice to enable it to amend the conditions or refuse authority for a particular performance within a specified period after notification is received. In such situations, where the local authority may merely wish to check the hypnotist's previous experience, the required notice period should be kept to a minimum.

The strict requirement for 28 days' notice of performances can seriously constrain stage hypnotists' ability to accept work, by preventing them from taking bookings at short notice. Local authorities are therefore encouraged, even where the venue does not hold a PEL, to accept shorter notice where possible, for example, if the hypnotist has previously performed at the venue without problems. Advertising, ticket sales etc, cannot reasonably go ahead until approval is granted and local authorities are encouraged to set targets for reaching decisions quickly.

Some local authorities saw no reason for most applications to be copied to fire authorities. We have therefore left this to local authorities' discretion.

Section 3(a): as there are no officially recognised qualifications or organisations, we have removed the request for details of previous experience, relevant qualifications and membership of any relevant organisation. This has been replaced with a request for details of the hypnotist's last three performances, to give an indication of the hypnotist's experience and allow the authority to make any necessary checks.

Previous section 2(b): we have removed the request for a description of the content of the proposed performance. On reflection we consider that as long as the hypnotist abides by the model conditions it is not necessary to have

details of the exact content. It would be difficult to provide if the hypnotist is to have some discretion to tailor the performance to the nature of the audience.

Section 3(b): we have added a final sentence in brackets. Previous refusal of a permission may have nothing to do with the acceptability or otherwise of the individual hypnotist.

Previous sections 3(a) & (b): these have been deleted because they related to the prior notification of the proposed content of the performance.

Section 4(b): the statement to be included on posters and programmes has been revised. The purpose of the statement is to help ensure that the audience are aware that participation remains entirely voluntary and do not feel forced to participate against their will.

Section 4(c): we have amended the insurance cover requirement to allow for it to be met by either the venue or the hypnotist. We have also removed the minimum level. The relatively low level of risk identified by the review does not necessarily justify a requirement for £1,000,000 insurance cover; local authorities will wish to make a judgement in relation to other relevant factors, such as the type and size of venue. We have added a requirement for proof of insurance cover to be available for inspection.

Section 4(e): this now makes it clear that the requirement for a line across the stage is only necessary when the stage is raised above the level of the auditorium. The condition also allows an exception to the prohibition on volunteers crossing the line, where they are told to do so as part of the performance (many performances include a participant being sent back to their seat only to keep returning to the stage having supposedly forgotten something),

Section 4(f): the final sentence before the suggested statement now indicates that the statement may be amended as necessary so long as the overall message remains the same.

Section 4(q): we have removed the prohibition on the use of inducements because this can be interpreted very widely and is not thought to add anything to the risks involved. The condition is now aimed exclusively at preventing use of any form of coercion to force participation.

Section 4(fh): this now relates to any requirement for attendants to be present specifically in relation to the hypnotism performance. Any wider requirement for attendants should have been considered when the PEL was issued or, if there is no PEL, can be separately considered by the local authority and added to this condition.

Section 4(i)(i): a hypnotist may often ask volunteers to behave as if they were a child; this is not age regression, which seeks to take the subject back to their own childhood.

Section 4(i)(iv): we have limited the prohibition to the consumption of harmful or noxious substances. In terms of risk to participants, there is no reason to prevent hypnotists from using normal edible items (onions, lemons, etc).

Previous section 3(i)(vi): this prohibited any suggestion which, if it occurred in reality, would cause anxiety or distress. Such a condition would prohibit many of the fanciful suggestions which hypnotists use as a part of their act. In practice volunteers do not react as if they truly believe that there is, for example, a giant spider behind them or a bomb under their chair. The opening sentence of section 4(j) prohibits any action which would be likely to cause harm, anxiety or distress.

Section 4(n): the additional sentence in brackets makes it clear that the hypnotist should not treat any problems beyond offering general reassurance and confirmation that all suggestions have been removed.

Section 4(o): as mentioned at paragraph 11 above, this provides a right of entry for local authority officers. Refusal would amount to a breach of the conditions and therefore an offence under the 1952 Act. Any future legislation to include a general power of entry for local authority officers could extend this power to cases where a performance is taking place in contravention of the Act, whether or not approval had been sought.

Enquiries

19. Please address any comments or questions arising from this circular to:

David Dipple
Liquor, Gambling & Data Protection Unit
Home Office
Room 1183
50 Queen Anne's Gate
LONDON SW1P 9AT
Tel: 0171 273 3158

20. The Annex to Home Office Circular No 42/1989 is hereby superseded.

Jennifer Flaschner

MRS J M FLASCHNER

Annex to Home Office Circular No 39/1996

MODEL 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 either under the terms of a public entertainments licence or 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 to a reasonable level by 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;

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 (eg, 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 (ie, 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 (eg, 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 (eg, 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);
- (M) 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.