

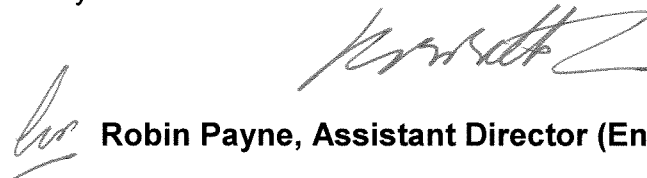
Licensing Committee on 31 October 2006Report Title: **UPDATE FROM THE LEAD LICENSING OFFICER**Forward Plan reference number (if applicable): **N/A**Report of: **Lead Licensing Officer**Wards(s) affected: **All**Report for: **Non-Key Decisions****1. Purpose**

- 1.1 To report to Members of the Committee in respect of resolutions made by Licensing Sub-Committees since 22 May 2006 and appeals against the decisions of Licensing Sub-Committees since that date .
- 1.2 To highlight for Members the provisions of the Gaming Act 2005, which comes into force on 1 September 2007.

2. Recommendations

- 2.1 That Members note the content of this report and its appendices.

Report Authorised by:

**Robin Payne, Assistant Director (Enforcement), Environment****Contact Officers:****Daliah Barrett, Lead Licensing Officer (x5103):**
daliah.barrett@haringey.gov.uk**Nicolas Mattis, Principal Committee Co-ordinator**
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2 Summary

This report lists all of the resolutions made by sub-committees since 22 May 2006 when the new Licensing sub-committees commenced hearings at the start of the municipal year . This report also outlines two appeals that have been to appeal at the Magistrates Court to challenge the Sub-Committee decision. The report finally draws Members' attention to the provisions of the new Gaming Act 2005, which comes into force on 1 September 2007. Members will be trained in full on their responsibilities under the Gaming reforms in due course.

3 Reasons for any change in policy or for new policy development (if applicable)

Not applicable.

4 Local Government (Access to Information) Act 1985

The following background papers were used in the preparation of this report:

None.

5 Recommendations

5.1 That Members note the information given in the report

5.2 That Members agree to receive updates on the appeals made against the Authority in respect of decisions made by Licensing sub-committees.

6 Comments of the Director of Finance

10.1 None.

7 Comments of the Head of Legal Service

7.1 None.

8 Equalities Implications

8.1 There are no specific equalities implications

9 Use of Appendices / Tables / Photographs

9.1 Appendix one lists details concerning two cases that are currently going through the courts as appeals against decisions made by Licensing Sub-Committees (Firstly the Golden Stool, and secondly Mizgin).

9.2 Appendix two lists the decisions / resolutions made by Licensing sub-committees since 22 May 2006.

9.3 Appendix three is guidance for Members on the provisions of the Gambling Act 2005.

**APPEAL AGAINST DECISION OF THE LONDON BOROUGH OF
HARINGEY LICENSING SUB-COMMITTEE on 10th January 2006**

THE GOLDEN STOOL, 89-91 High Road, Tottenham, London N15 6DL

REASONS FOR DECISION ON 31st August 2006

We have heard full and well prepared presentations from both advocates.

This appeal is by way of a re-hearing and we heard evidence from a number of witnesses.

The Licensing Sub-Committee granted a Premises Licence from 10 a.m. to 11 p.m. daily. We are aware that these premises previously operated longer hours. From the evidence given we are also aware that over the years there have been complaints relating to noise and other nuisances emanating from the premises.

Had the original application for conversion been accepted the applicant would have been able to operate longer hours without additional conditions. We are satisfied that we can grant the application in part with additional conditions to satisfy the licensing objectives. A Premises Licence granted under the new Act can include specific activities and hours. The range of conditions is much wider and the penalties for breach much more severe.

We are, therefore, satisfied that we can grant the sale by retail of alcohol from 10 a.m. to midnight Sundays to Thursdays and 10 a.m. until 2.00 a.m. following Fridays & Saturdays. We will not grant any non standard hours. Temporary Event Notices will have to be applied for any events outside these hours.

We also grant the provision of late night refreshment from 11p.m. to midnight Sundays to Thursdays and 11 p.m. until 2.00 a.m. following Fridays & Saturdays.

The provision of regulated entertainment and the provision of entertainment facilities for making music and dancing are granted for films, indoor sporting events, live music and recorded music from 10 a.m. to midnight Sundays to Thursdays and 10 a.m. until 2.00 a.m. following Fridays & Saturdays.

We are imposing the conditions as set out in the minutes of the Licensing Sub-Committee dated 10th January 2006 (page 7) with the amendment to the Schedule of the Fire Officer dated 9th January 2006 which was agreed in this court on the last occasion. In addition, we are also imposing the following conditions:

1. A noise limiter is to be installed with the level to be set by the Haringey Environmental Health Officer.
2. A digital C.C.T.V. system must be installed and maintained inside and outside the premises monitoring the entrances and exits. The system must be recording at all times when the premises are open and the recordings must be kept for 31 days and made available to the Police or Council on request.

3. Customers may only enter the premises via the High Road entrances.
4. Two S.I.A. approved door staff must be in place whenever regulated entertainment is taking place.
5. Queues outside the premises must be closely monitored by the management and kept to the High Road.
6. The management must keep a written record of all verbal and written complaints. This must be available to the Police and Council on request.

We are making no order as to costs. We believe that the Council acted reasonably.

London Borough of Haringey -v- Mizgin Restaurant

Appeal Against Refusal to Grant A Licence

Reasons - 19th September 2006

"We have considered many documents and listened to the many witnesses called today.

The original application was refused on the basis that due to the noise, smell and waste there were grounds under Section 4 (2) (c) Licensing Act 2003 to refuse the licence. This was on the basis of the prevention of public nuisance.

We have been referred to the Haringey Council Guidelines, in particular paragraphs 13.1-13.3 dealing with late night activities.

The council refer to noise, smell and waste as the three reasons for finding against the applicant.

Dealing firstly with the litter problem; we do not feel we have heard sufficient evidence to suggest there is a problem. There is a prosecution pending for one bag of waste outside the premises in Green Lanes. This appears just to be a one off. In regards to the evidence of Mr Mashru regarding the waste outside the premises there does not appear to be any evidence to substantiate the claim, we have not heard any additional evidence or any evidence to suggest complaint had ever been made to the relevant authorities.

We have also heard evidence, in particular Mr Sharman, that there was a considerable smell emanating from the flue system which seemed to accumulate in the corner of the building where one of his bedrooms is. We are satisfied that this is a public nuisance and it is an ongoing problem.

Similarly we are also satisfied that there has been, and still is, a noise problem. There have been problems in the past which led to a statutory noise abatement notice being issued on 11th July 2003. It is not contested that Mr Kovayacin breached the order and was subsequently fined by the court. We accept that no further formal complaints have been made concerning the noise since November 2004 however Mr Sharman stated that he stopped making complaints direct to the council during the period when he complained to the Ombudsman. He also stated that the council had accepted that it was their ongoing duty to check the noise situation. Mr Sharman gave clear credible evidence about the conditions he now lives in. He generously accepts that there will be some noise and smell from a restaurant but we find it unacceptable for him to resort to sleeping with ear plugs during the night time and having to keep his windows closed to minimise the noise and smell.

We therefore agree that the council were right in deciding that there was a public nuisance caused by the operation of the Mizgin Restaurant.

We did consider flatly refusing the grant of the licence; however, we are prepared to grant a licence on limited terms and conditions.

We take great assistance from the statutory noise abatement notice. Clearly the noise team examined the flue, the area and the times and the operation of the premises:

(1) We are content to limit the hours to 1am in the morning following Friday and Saturday nights and to midnight on Sundays to Thursdays.

(2) We also impose a condition that the extract ventilation system be upgraded and or modified in order to dissipate the odours away from the building. This should be done in liaison with the environmental health team and a competent contractor, who is acceptable to both parties, and for both parties to agree the upgrade or modification plans. This work will need to be completed within three months from today.

(3) The operation of the extract ventilation system shall also cease at the cessation of the opening times.”

LCA04 CAIPIRINHA, 177 Archway Road N6 (Highgate ward) (Agenda Item 5):

.....

RESOLVED:

The Committee decided to grant the application in full and subject to the following conditions:

- (i) Conditions to enforce the operating schedule.
- (ii) Conditions to enforce the Standard Mandatory Condition set out at Sections 19 and 21 of the Licensing Act 2006.
- (iii) Adhere to the conditions set out by the CPA on under-age drinking.
- (iv) The applicant shall commission an independent experts report (the expert to be agreed with the Environmental Health Department of Haringey Council) which will address any smells emanating from the premises and implement any recommendations to ensure that smells are properly vented from the premises to prevent any nuisance.
- (v) The applicant shall commission an independent experts report (the expert to be agreed with the Environmental Health Department of Haringey Council) which will address any noise or vibration emanating from the premises, and implement any recommendations to ensure that noise and vibration emanating from the premises (including from the extractor fan) does not cause a nuisance.

INFORMATIVE:

- (i) This licence does not constitute a consent under any other regime. It is necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.
- (ii) All parties were reminded that under the Licensing Act 2003, a review of the license can be applied for at any time by interested parties and responsible authorities.

LCA05 THE NEXUS POINT RESTAURANT, 686 High Road N17 (West Green ward) (Agenda Item 6):

RESOLVED:

The Committee decided to grant the application in part, subject to the following conditions:

- (i) Conditions to enforce the operating schedule.
- (ii) Conditions to enforce the Standard Mandatory Condition set out at Sections 19 and 21 of the Licensing Act 2006.
- (iii) The licensee must provide a door supervisor at the premises when a private function is held at the premises for the duration of the function.
- (iv) That the opening hours for public are:
Sundays to Thursdays 11:00 to 03:00
Fridays and Saturdays 11:00 to 04:00
- (v) That hours for provision of late night refreshments are:
Sundays to Thursdays 23:00 to 02:30
Fridays and Saturdays 23:00 to 03:30
- (vi) That hours for supply of alcohol are:
Sundays to Thursdays 11:00 to 02:30
Fridays and Saturdays 11:00 to 03:30
- (vii) That hours for recorded music are:
Sundays to Thursday 23:00 to 03:00
Friday and Saturdays 23:00 to 04:00

These hours had been requested by the applicant and in accordance with the applicant's letter of 30 March 2006, the hours were adjusted to allow for the licensable activity to end 30 minutes before closing of the premises.

The reason why the requested change of days in relation to the supply of alcohol had not been permitted was because permission for these days would not have been able to comply with premises opening hours.

- (viii) Adhere to the conditions set out by the CPA on under-age drinking, namely that alcohol may only be sold to individuals over the age of 18 with valid proof of identification with one of the following:

- a valid passport

- a photo driving license issued in an EU country
- a proof of age standard card system
- a citizen card, supported by the Home Office

REASONS:

The reasons for applying these conditions are to protect children from harm, promote public safety, and prevention of public nuisance.

INFORMATIVE:

- (i) There is no permission for the provision of facilities for dancing. If the applicant wishes to provide this, an application for a variation to the license would need to be made.
- (ii) This licence does not constitute a consent under any other regime. It is necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.

LCA06 ISTANBUL RESTAURANT, 441 Green Lanes N4 (Harringay ward)(Agenda Item 8):

This Item was adjourned at the agreement of the Committee, the applicant, interested parties and responsible authorities due to time constraints which the Committee was under to hear all application of the evening. The application would be brought back before a future Licensing Sub-committee.

LCA07 ATHENA PALACE, 657 Green Lanes N8 (Harringay ward)(Agenda Item 7):

After a short hearing comprising a the Licensing Officer's Report and the first part of an objector's case, the proceedings were interrupted by the Legal Representative. It had been brought to the Committee's attention, that the premises license applied for would affect 500 or more people. Under the Council's Constitution (Part E.7 Section 6 (1)(e)) it is the full Licensing Committee only that can exercise the functions of the Licensing Sub-Committees in relation to any premises, site or event where 500 or more persons are to be present.

The hearing was subsequently adjourned, to be brought back to a meeting of the full Licensing Committee, once the actual number of people to be present at the premises was properly confirmed. The Licensing Officer confirmed that a fee would not be levied to the applicant for a new application, but that fresh papers would need to be submitted. These would then be fully circulated to all interested parties and responsible authorities.

LCA14 THE MAGIC FLUTE, 31 High Street, N8 (Hornsey ward) (Agenda Item 6):

This Item was withdrawn from consideration due to ongoing dialogue between the applicant and the responsible authorities.

LCA15 YAYLA RESTAURANT, 429 Green Lanes, N4 (Seven Sisters ward)(Agenda Item 7):

RESOLVED:

The Committee decided not to grant the application for variation. The reason for this was in order to prevent public nuisance to interested parties, it was necessary to refuse later hours based on the evidence heard from local residents in the vicinity of the premises, who had experienced noise nuisance late at night.

LSCA21 120A ALEXANDRA PARK ROAD, N10 (MUSWELL HILL WARD):

The Licensing Officer, Daliah Barrett presented the report for an application to provide a licensable activity in the supply of alcohol to the Committee. The applicant had agreed to carry out all the works proposed by the fire officer. The fire officer had therefore withdrawn his objections to this application. The Committee asked Ms Barrett to clarify the hours applied for, Ms Barrett confirmed that the application stated 07:30am – 11:00pm.

RESOLVED

The Committee decided to grant the application in full and subject to the following condition to impose the requirements of the fire authority.

LSCA22 90 TRINITY ROAD, N22 (BOUNDS GREEN WARD):

The Committee were advised by officers that Ms Caroline Simpson, the only objector to this application who had previously indicated an intention to attend, had telephoned to give her apologies because she would not after all be able to attend the Licensing Committee today to make representations in person. Mr Mitchison advised the Committee about the Procedure Rules for the non-attendance of parties and reminded Members that they needed to consider whether it was in the public interest to adjourn the application to give all parties the opportunity to attend or to proceed to hear the application in the absence of the objector.

The Committee decided to consider the application in the absence of the objector.

Ms Barrett, Licensing Officer presented the report to the Committee and highlighted the current position. The Fire Officer had objected to the application, but that this had now been withdrawn as the works had been carried out. The application for the opening hours and the supply of alcohol were requested from 07:00am – 11:00pm Monday to Sunday. Ms Barrett highlighted there had been three letters of objection to the application from interested parties.

The Chair invited questions to the Licensing Officer. The Committee requested confirmation of the locality of Durnsford Park to the premises and were advised that the Park is not near them. Councillor Peacock enquired whether the Cavendish Club had a license to sell alcohol and was advised they have a license until 11pm.

The Chair invited the applicant's representative, Mr Max Appel of Counsel to address the Committee. Mr Appel stated there was no actual evidence that the licensing objectives would be breached only supposition. There were objections on the public nuisance objective and when Ms Locket says "I believe" that there will be problems, this is not fact only pure conjecture. There is no evidence provided to link the application premises to any of the three objectors claims. Nor were there any representations from the police or fire officer. On the 14 July 2006, the applicant had written to the Licensing Officer offering to comply with a further two conditions:

1. To install a red care alarm system connected to the police via a twenty four hour monitoring station to be installed and maintained at the premises.
2. That customers will not be allowed to congregate outside the premises.

Mr Appel also informed the Committee that the applicant was in receipt of a

three page petition signed by thirty three local residents whom lived within the vicinity of 90 Trinity Road and whom were all in support of Mr Celebi's application for a license.

The Committee posed a question to the applicant and enquired what he intended to do if customers congregated outside the shop. He responded by stating that customers would be asked to leave or the police would be called.

RESOLVED

The Committee decided to grant the application in full and subject to the following conditions.

The reasons for the decision were:-

1. Insufficient evidence to reject or cut down the application.
2. The Committee noted there are already premises selling alcohol in the vicinity.

The following conditions are imposed:-

1. To implement the red care alarm system connected to the police.
2. To prevent undesirable persons from congregating outside the shop.
3. The conditions to enforce the provisions of the operating schedule.
4. Alcohol shall only be sold to persons able to produce valid proof of age, if this is in doubt, by means of photographic identification.
5. Statutory mandatory conditions in sections 19 and 21 of the Licensing Act 2003.

LSCA27 **ATHENA PALACE, 657 GREEN LANES LONDON N8** (Harringay ward)(Agenda Item 5):

....

RESOLVED

That the Committee agreed to grant both applications but only as follows and subject to the conditions below:

- (i) The provision of late night refreshments, music and dancing, and opening hours to the public be until 02:00 a.m. ~~only~~ on the morning after Saturdays, on the morning after Good Friday, and on the morning after Christmas Day.
- (ii) Alcohol sales on those days are to cease at 01:30 a.m.
- (iii) Conditions to enforce the provisions of the operating schedule.
- (iv) The mandatory statutory conditions under sections 19 and 21 of the Licensing Act 2003.
- (v) Door supervisors are to take all practicable steps to ensure clients leave the premises quietly.
- (vi) Door Supervisors registered with the Security Industry Authority are to be employed at the premises from 08.00 p.m. until the times of closing to the public.
- (vii) Toilet checks are to be carried out every 30 minutes to deter drug use and a full record of checks is to be kept.

All other variations of the existing premises licence applied for, including the application to remove embedded conditions, were refused.

The reasons for cutting down the applications were because the Committee considered that it was necessary to prevent public nuisance and unreasonable disturbance of local residents by noise from the premises. This was evident from the representations heard by the Committee.

INFORMATIVE

All advertising material relating to the premises and the events it holds should stipulate both the actual closing times of the premises/events, and the upper capacity limits of the premises, which is 450 people.

LSCB01. OFF LICENSE, 3 TURNPIKE LANE N8 (HARRINGAY WARD):

The Licensing Manager, Ms Barrett, presented the report on the application to the Committee. Members noted that the applicant nor a representative of the application failed to attend the meeting.

RESOLVED

The Committee noted with some concern that the Applicant did not attend the hearing and accordingly, that he had failed to avail himself of the opportunity to present his application and address the impact a premises license granted to him would have on the licensing objectives.

The Committee has considered the application and has noted the applicant's comments in Box P of the Operating Schedule but does not consider that the Applicant has presented adequate information to reassure the Committee with regard to the licensing objectives.

The Committee was particularly concerned about the applicant's failure to provide satisfactory assurance to the Fire Officer that the works recommended by the Fire Officer in his letter dated 13 April 2006, had been carried out. In addition the Committee also noted the representations made by the Interested Parties.

The Committee in the light of the foregoing has decided to refuse to grant the premises license because the Committee considers this necessary so as to ensure that the public safety and prevention of public nuisance licensing objectives are not undermined.

LSCB02. OFF LICENSE, 3 TURNPIKE LANE N8 (HARRINGAY WARD):

The Licensing Manager, Ms Barrett, presented the report on the application to the Committee. Members noted that the applicant nor a representative of the application failed to attend the meeting.

RESOLVED

The Committee noted with some concern that the Applicant did not attend the hearing and accordingly, that he had failed to avail himself of the opportunity to present his application and address the impact a premises license granted to him would have on the licensing objectives.

The Committee has considered the application and has noted the applicant's comments in Box P of the Operating Schedule but does not consider that the Applicant has presented adequate information to reassure the Committee with regard to the licensing objectives.

The Committee was particularly concerned about the applicant's failure to provide satisfactory assurance to the Fire Officer that the works recommended by the Fire Officer in his letter dated 13 April 2006, had been carried out. In addition the Committee also noted the representations made by the Interested Parties.

The Committee in the light of the foregoing has decided to refuse to grant the premises license because the Committee considers this necessary so as to ensure that the public safety and prevention of public nuisance licensing objectives are not undermined.

LSCB03. TRADITIONAL TURKISH COFFEE HOUSE, 381 TOTTENHAM HIGH ROAD N17 (BRUCE GROVE WARD):

The Committee were advised that this application would now not to be considered as the Fire Officer had withdrawn their representations.

LSCB04.	<p>HILL RISE CLUB, 807 HIGH ROAD N17 (NORTHUMBERLAND PARK WARD):</p> <p>The Committee was informed that this item would not be heard at this evening's meeting due to the applicant being out of the country and unable to attend. The Committee was asked to adjourn the hearing of this application to a future date to be specified.</p> <p>RESOLVED</p> <p>That the Committee agreed to the adjournment of Agenda Item 7, to a date to be notified.</p>
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LSCB05.	WEST GREEN POOL, 428 WEST GREEN ROAD N15 (WEST GREEN WARD): The Committee were advised that this application would now not to be considered as the Fire and Planning Officers had withdrawn their representations.
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LCC04 ISTANBUL RESTAURANT, 441 Green Lanes N4 (Harringay ward)
(Agenda Item 5):

.....

RESOLVED:

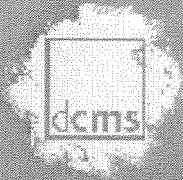
The Committee noted that the applicant had offered to amend the application to vary to that the last time for the sale of alcohol would be midnight every day of the week and so that for New Year's Eve, the last time for the sale of alcohol shall be 02:00 on New Year's Day.

The Committee decided to grant the amended application for variation to a premises license subject to the following conditions:

- (i) Conditions to enforce the provisions of the operating schedule
- (ii) Conditions to enforce the standard mandatory conditions (section 19) of the Licensing Act 2003.
- (iii) That the sale of alcohol be as follows:
 - 09:00 to 00:00 Monday to Sunday
- (iv) That hours on New Year's Eve for sale of alcohol be as follows:
 - 09:00 on New Year's Eve to 02:00 on New Year's Day
- (v) The Committee noted that the applicant offered to remove the illuminated sign mounted on the exterior of the premises by the afternoon of the 28 June 2006. The Committee therefore also resolved that the illuminated signage to the exterior of the premises be fully removed with two days of the date of the decision.

INFORMATIVE:

- (iii) This licence does not constitute a consent under any other regime. It is necessary for the licensee to obtain any other consents that may be necessary for the lawful operation of the premises, including planning consent.

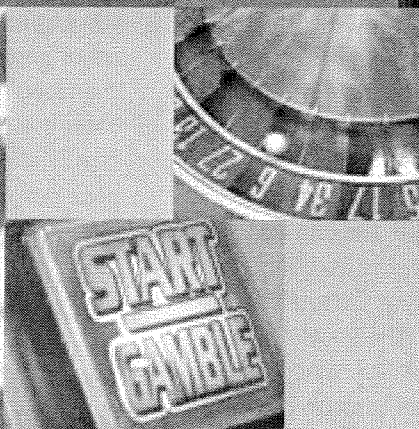
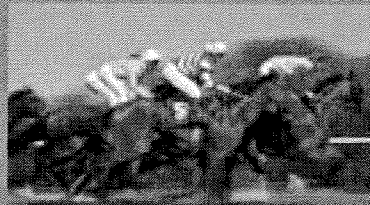


Department of
culture, media
and sport

New Gambling Act Explained

Councillors

KEEPING GAMBLING GRIP-FREE FOR KIDS AND YOUNG PEOPLE AND PROTECTING CHILDREN AND VULNERABLE FAMILIES



improving
the quality
of life for all



This leaflet has been prepared by the Department for Culture, Media and Sport's (DCMS) Gambling Division to help Local Authority Councillors to better understand their new role under the Gambling Act 2005.

Background

The new Gambling Act 2005 comes into force on 1 September 2007. It has created a unified regulator for gambling in Great Britain called the Gambling Commission, as well as establishing a new licensing regime for commercial gambling. The Gambling Commission will regulate all commercial gambling in Great Britain, except the National Lottery and Spread Betting, and will issue operating and personal licences.

The Gambling Act 2005 transfers all responsibility for licensing gambling premises from Licensing Justices to Licensing Authorities (the Local Authority in England and Wales). Licensing Authorities will also be responsible for a number of different permits, as well as temporary and occasional use notices.

Local Authorities and the new Act

Local Authorities acting as Licensing Authorities will now issue premises licences for the following activities:

- bingo
- betting
- adult gaming centres
- family entertainment centres
- casinos
- horse racing and dog tracks.

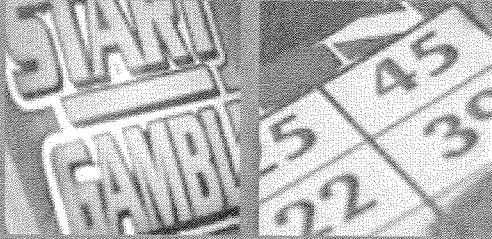
They will issue permits for:

- gaming machines in alcohol licensed premises, such as pubs
- gaming machines for members clubs
- other gaming activities in members' clubs
- category D machines* in unlicensed family entertainment centres
- prize gaming.

*Category D machines are those that can be used by children and have the lowest level of stakes and prizes

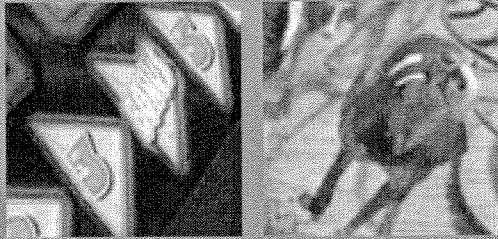
They will also register and issue:

- small society lotteries
- occasional and temporary use notices
- provisional statements.



**The new Gambling Act 2005
contains three licensing objectives
that underpin the entire legislation:**

- **preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime**
- **ensuring that gambling is conducted in a fair and open way**
- **protecting children and other vulnerable people from being harmed or exploited by gambling.**



Councillors and the new Act

For premises licence applications and reviews, Councillors will sit on licensing committees as they do for the Licensing Act 2003. For permits other arrangements may apply, depending upon delegations.

Unlike the Licensing Act 2003, Councillors may make representations without being asked by a resident specifically to do so, although they will have to bear in mind wider issues of bias, prejudice and personal interests. Representations may only be made in relation to premises licences, not permits.

The new Gambling Act requires that all Local Authorities prepare, consult and publish a *Statement of Gambling Policy*, which sets out the principles of how it will carry out this licensing work over the next three years. These will be open to public consultation and must be approved by the full council before final publication.

Applications – Premises Licences

Licensing Authorities will accept applications under the new Act from 30 April 2007. All operators must apply for new permissions under the new Act if they wish to operate after

1 September 2007. This also applies to all operators wanting to continue an existing business or start a new operation.

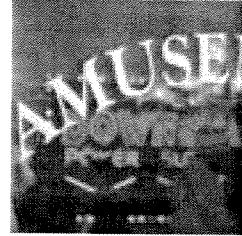
A Licensing Authority should aim to permit the use of premises for gambling if it believes that the application is:

- in accordance with any relevant Guidance or Codes of Practice issued by the Gambling Commission
- reasonably consistent with the licensing objective
- in accordance with the Authority's *Statement of Gambling Policy*.

Processing Applications – Premises Licences

When an application for a premises licence is being made, representations from external parties may be made about the application. The Licensing Authority will consider all relevant representations, as well as other factors, before making a final decision.

Only representations made by a *Responsible Authority* or *Interested Party* will be considered and they must be relevant. The definitions of these two categories differ from those included in the Licensing Act 2003.



A *Responsible Authority* must be notified by the applicant when an application for a premises licence is being made.

A *Responsible Authority* is a public body which can make a representation in relation to the application, as well as to an existing licence.

They are:

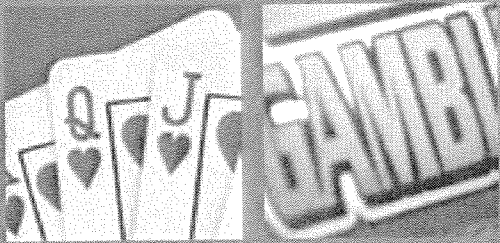
- a Licensing Authority in England and Wales in whose area the premises is wholly or partly situated
- a Local Authority (in Scotland)
- the Gambling Commission
- a Police Authority
- a Fire and Rescue Authority
- a Planning Authority
- a Environmental Health Authority (or equivalent)
- the body designated by the local authority as competent to advise about the protection of children from harm (Social Services etc)
- the body which is competent to advise about the protection of vulnerable adults (to be designated by the Secretary of State)
- the HM Revenue and Customs
- Navigation Authorities (Environment Agency, British Waterways Board, Maritime and Coastguard Agency) and the Secretary of State (for vessels only).

An *Interested Party* is a person who:

- lives sufficiently close to the premises to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents people in either of the above groups (eg lawyer, accountant, councillor, community association, chamber of commerce etc).

Representations that are relevant are those issues which relate to the gambling Commission's *Guidance* or *Codes of Practice*; issues related to the Gambling Act 2005's three licensing objectives (as listed above); or issues related to the Authority's *Statement of Gambling Policy*. Where Responsible Authorities make representations that are not relevant under the new Act, they may take action under their own legislation and enforcement powers.

A premises licence, once issued, will be set for an unlimited duration but the Licensing Authority does have the power to review and revoke it any time, and it may be surrendered or lapsed due to death or bankruptcy of the holder.



The Licensing Authority may grant premises licences to pleasure boats and floating restaurants, but a vessel going into international waters (eg a cross-channel ferry) does not need a licence. Trains and cars are not entitled to hold a premises licence.

Licence Conditions – Premises Licences

There are a number of conditions attached to premises licences under the new Act, and additional conditions may also be attached by both the Secretary of State and the Licensing Authority.

Mandatory conditions are set by the Secretary of State or Scottish Ministers. A Licensing Authority has no power to remove or vary these mandatory conditions.

Default conditions are attached in the same way as mandatory conditions, however, the Licensing Authority may remove or replace them. The Gambling Commission's Guidance suggests that these default conditions are expected to be the industry norm. Whilst Licensing Authorities may remove default conditions if they think this is appropriate, they must consider carefully before imposing a

regime that is stricter than the one that is expected to be the industry norm.

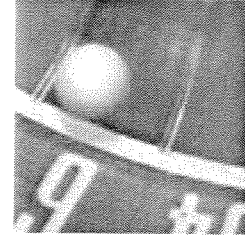
The Licensing Authority may also attach *individual conditions* to a licence, for example, door supervision.

Unlike the Licensing Act, officers may make recommendations to add conditions to premises licences without the need to make formal recommendations.

Hearings

The Licensing Committee must consider an application at a hearing if relevant representations are made and not withdrawn, or if the licensing officer proposes that individual conditions should be attached to the licence (either new conditions or the removal/variation of default conditions). Regulations regarding hearings will be published.

The Licensing Committee will usually delegate to a licensing officer to grant or reject an application where no representations are made, unless conditions are to be attached.



Appeals

Appeals against decisions made by Licensing Authorities in England and Wales are made to the Magistrates' Court in England and to the Sheriff's court in Scotland.

Fees

It is likely that premises licence fees will be set by the Secretary of State via a series of bands, with a prescribed maximum. Licensing Authorities will be able to select precise fees from within the bands, limited to cost recovery. This will allow Authorities flexibility and the industry a degree of certainty.

In addition, excellent performing Authorities (those with top CPA ratings) will be able to set premises licence fees outside these bands, limited to cost recovery.

The Secretary of State will also set the fees for permits and other services. In Scotland, Scottish Ministers will set all fees. Regulations regarding fees will also be published.

Casinos

Local Authorities have new powers to:

- issue premises licenses for casinos
- resolve not to issue any further casino premises licenses in their area.

The Act creates three new casino categories and initially allows for 17 new premises licences to be issued across Britain: 1 regional, 8 large and 8 small casinos.

An independent panel will advise the Government where these new casinos should be located, once an assessment of their social impact and the likely regeneration benefits has been made.

More information

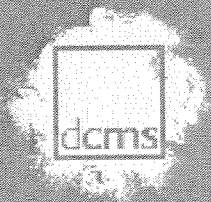
Further details can be found in the Gambling Commission's *Guidance to Licensing Authorities* and the DCMS' *Gambling Act 2005 – Transitional Arrangements* and *Gambling Act 2005 – Training Materials for Licensing Authorities*.

Department for Culture Media and Sport
www.culture.gov.uk

Gambling Commission
www.gamblingcommission.gov.uk

**Local Authorities Coordinators
of Regulatory Services**
www.lacors.gov.uk

Institute of Licencing
www.instituteoflicensing.org



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