

Licensing Committee on 6th December , 2005

Report title: Policy for Gaming Act provisions under the Licensing Act 2003

Report of: Director of Environmental Services

Ward(s) affected

All

1. Purpose

1.1 The purpose of this report is to ;

- (a) Review the current policy on 'amusement with prizes' gaming machines ("AWP machines") in premises that are not solely or wholly amusement centres.
- (b) Determine policy on applications to play certain games on licensed premises and the commercial provision of amusements with prizes.

2. Recommendations:

2.1 It is recommended that the Licensing Committee pass a resolution to the effect that:

- (a) Section 34 Gaming Act 1968 permits will not be granted or renewed by the Council in respect of premises (i) that are not licensed for the supply of alcohol under section 18 of the Licensing Act 2003; or (ii) that are hotels and or restaurants which serve alcohol only as an accompaniment to meals; or (iii) which are not wholly or mainly used for the provision of amusements with prizes; and
- (b) The Council will grant or renew Section 34 Gaming Act 1968 permits for a maximum of two amusement with prizes gaming machines on premises without the need for a hearing, but that if an applicant requests more than two such machines on premises, then a hearing before a Sub-Committee will be required.

2.2 Each application for Orders under S.6 of the Gaming Act 1968 or for Permits under S16 of the Lotteries and Amusement Act 1976 shall be considered on its own merits and the facts as submitted, and that no formal policy in relation to applications made in these respects need be adopted at this point in time.
In the coming year, the Authority will be required to submit a Statement of Gambling Policy in connection with the Gambling Act 2005, which is expected to come into force in 2007.

2.3 The terms of reference of Licensing Sub-Committees in Part E.7 of the Council's Constitution should include an additional sub-paragraph reading "To determine the following: (a) applications for permits for two or more amusements with prizes gaming

machines; (b) applications for orders providing for the playing of certain games; (c) applications for permits allowing the provision of amusements with prizes where those amusements constitute a lottery and or gaming.” The General Purposes Committee and full Council should be requested to amend the Constitution accordingly.

Report authorised by:Director of Environmental Services

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3. Executive summary

- 3.1 The Licensing of 'fruit machines' properly known as Amusement With Prizes (AWP) machines is controlled by permits issued under section 34 of the Gaming Act 1968. The responsibility for AWP machines in alcohol licensed premises currently rests with the Licensing Justices in the Magistrates Courts. The responsibility for issuing such permits for non-alcohol premises such as takeaways, lies with the Local Authority. The present Haringey resolution is that we will not permit such machines in non-alcohol premises unless they are within proper amusement arcades.
- 3.2 With the transfer of alcohol licensing to Local Authorities under The Licensing Act 2003, the responsibility for issuing permits for alcohol licensed premises such as pubs and other bars, will rest with Haringey as Licensing Authority. This report advises of recommended changes to our policy to allow for AWP machines within alcohol licensed premises at a level currently allowed by the Magistrates. This position may be considered again at a future time when the full implications of the Gambling Act 2005 which is currently before Parliament, become clear.

3.3 Reasons for any change in policy or for new policy development

These changes are required as the Haringey Licensing Authority will become responsible for the issue of permits for AWP machines in premises licensed for the supply of alcohol, taking this function over from the Magistrates Court. In addition to that function, in relation to premises which are licensed for the supply of alcohol, the Licensing Authority will also assume responsibility for issuing orders under section 6 of the Gaming Act 1968 and for issuing permits under section 16 of the Lotteries and Amusements Act 1976. All three changes to the system are outlined below.

1. Section 34 permits for Amusement With Prizes machines, these are frequently known as 'fruit ' or 'slot' machines. There are two types:
 - 1a) The 'all cash' machine, which has a maximum stake of 30p and a maximum prize of £25. This type is commonly found in pubs, or arcades with an over 18 door policy; and
 - 1b) The "coin or token" machine, which has a maximum stake of 30p and a maximum prize of £5 cash or £8 non-cash. This is the type found in premises to which children have access.

2. Under S.16 of the Lotteries and Amusements Act 1976, local authorities have responsibility for granting amusements with prizes permits. S.16 permits allow the playing of certain games and lotteries for prizes, commercially, within specified money limits. It is not intended to be used for authorising gaming machines.
3. Section 6 of the Gaming Act 1968 entitles holders of 'justices' on licenses to apply to play certain games on their premises. Licence-holders are automatically entitled to play dominoes and cribbage (subject to any condition) . Justices have the power to impose conditions or restrictions by order, concerning the playing of all games on licensed premises, to ensure that:
 - a. gaming for high stakes places does not take place, and
 - b. gaming does not become the main inducement for people attending the premises.

Members should note that Section 34 Permits and Section 6 Orders will not be allowed on hotel and restaurants which serve alcohol only with food.

4. Access to information:

4.1 Background Papers:

Licensing Act 2003 and S182 Guidance in respect thereof

Gaming Act 1968

The Background Papers are located at the Enforcement Service, Civic Centre , High Road , Wood Green , N22 8LE

To inspect them or to discuss the Report further, please contact Daliah Barrett on 020 8489 5103.

5. Report

Background

- 5.1 The Council currently has the responsibility for issuing AWP machine permits for premises that do not have a Justices' on-licence to sell liquor or are not registered club premises. The Council has a nil resolution passed by the Environmental Services Committee on 22nd November 1990 on this matter, and has agreed to only grant such permits to premises which are wholly or mainly used for the purposes of an amusement arcade or amusement centre.
- 5.2 However, this was considered at the time when Justices' on-licences under the Gaming Act 1968 took AWP machine permits outside of Council control. The position will now change under the Licensing Act 2003. The granting of a premises licence to supply alcohol will fall to the Council and with it will come the responsibility of granting or renewing AWP machines in pubs and other premises granted a premises licence authorising the supply of alcohol under the Licensing Act 2003

- 5.3 In respect of applications under Section 6 (of the Gaming Act 1968) and Section 16 (of the Lotteries and Amusements Act 1976), it is understood that these are seldom applied for at the Magistrates Court. There have only been a few in the memory of the staff at Highgate going back several decades. We therefore believe that no policy should be brought in at this time and that the matter should be considered at the time of making this Council's Statement of Gambling Policy under the reforms presently before Parliament.

RESOLUTION MAKING POWER

- 5.4 Under the regime existing prior to the changes brought in by the Licensing Act 2003, the Council is empowered by the Gaming Act 1968 to pass a resolution to the effect that (a) it will not grant, (b) that it will not grant or renew, or (c) that it will only grant or renew subject to a condition limiting the number of machines in respect of specified premises.
- 5.5 The amendments to Schedule 9 of the Gaming Act 1968 have not conferred any additional resolution making powers on the Licensing Authority. Further, the resolution making powers that the Licensing Authority already has with respect to those premises over which the Council has always had jurisdiction (such as 'fish and chip' shops), have not been extended to cover the alcohol licensed premises over which the Licensing Authority has now been granted jurisdiction. Accordingly, the Licensing Authority does not have any power to pass a resolution banning AWP machines on alcohol licensed premises, or to set a limit on the numbers of AWP machines that it will permit in such premises. This position replicates that which exists in relation to premises used wholly or mainly for the provision of amusements by means of machines.
- 5.6 Under the new regime, the Licensing Authority will - on a case by case basis - be entitled to grant or reject applications for permits for AWP machines in alcohol licensed premises and to impose a condition specifying the maximum number of AWP machines allowed in the particular premises. In the circumstances, it is not possible for the Licensing Authority to pass a resolution with respect to AWP machines in alcohol licensed premises. This does not affect the resolution that has been passed in respect to other premises, such as 'fish and chip' shops.

CONSIDERATIONS

- 5.7 The Council's current policy restricts the grant of such permits to premises which are wholly or mainly used for the purposes of an amusement arcade or amusement centre. These premises would have restrictions on entry to anyone under the age of 18 years and the policy was concerned to prevent young children from gaining access to these machines in fish and chip shops and the like.
- 5.8 At present the Magistrates routinely grant permits for 2 AWP machines. Applicants submit plans of the premises detailing where the machines are to

be sited and the Justices' automatically grant up to a maximum of 2 machines without the need for a hearing. If an applicant requests more than two then plans have to be submitted showing the location of the machines and a hearing is required.

- 5.9 In the circumstances, it is considered that the Council should resolve that Section 34 Gaming Act 1968 permits will not be granted or renewed in (a) premises which are not premises licensed for the supply of alcohol under section 18 of the Licensing Act 2003; or (b) premises which are not wholly or mainly used for the provision of amusements with prizes; or (c) premises which are hotels and or restaurants in which alcohol may only be supplied for consumption where such supply is ancillary to a meal.
- 5.10 It is also considered that the Council's approach should be that in relation to applications for AWP permits on premises licensed to supply alcohol under section 18 of the Licensing Act 2003 (except as regards in cases where such applications have been submitted by hotels and or restaurants which may only supply alcohol as an accompaniment to a meal) it will grant permits for a maximum of two AWP machines without the need for a hearing. If an applicant requests more than two AWP machines, then a hearing before the Sub-Committee will be required in order that the Licensing Authority may determine the application.
- 5.11 It is envisaged that the grant of permits for a maximum of two AWP machines will be dealt with at Officer level.

FEES

- 5.12 There is a financial implication for the granting and renewing of S34 permits. It is a statutory fee of £32.00 per application, with a maximum of 2 machines per premises. Permits are renewable every 3 years. This figure can be adjusted by the Licensing Authority after 24th November 2005.
- 5.13 The authority is able to set its own application fee in respect of S34 permits. However , Section 16 Lotteries and amusement with prizes will remain at £32.00.
- 5.14 Section 6 applications do not carry a fee and can be requested in a simple letter format or as part of the application for an alcohol license under the 2003 Act.

CONCLUSION

- 5.15 Members are asked to note that due to the legislative changes that have resulted in the transfer of responsibility for the issuing of permits for amusements with prizes machines in alcohol licensed premises from the Magistrates' Court to the Licensing Authority, Members are obliged to adopt a resolution allowing the granting or renewal of AWP permits in alcohol licensed (excluding those restaurants and or hotels where alcohol may only be served as an accompaniment to a meal) premises along with premises wholly or mainly used for the provision of amusements with prizes.

In addition to the above, it is open to members:

5.16 :

to change the present policy:

- (i) to allow for the issuing of permits for amusements with prizes machines in alcohol licensed premises (excluding those restaurants and or hotels where alcohol may only be served as an accompaniment to a meal) along with premises wholly or mainly used for the provision of amusements with prizes,
- (ii) to provide that permits for amusements with prizes machines will not be granted or renewed in alcohol licensed premises that have a requirement that alcohol may only be served with food,
- (iii) to further revise the classes of premises where permits are not to be granted or renewed,
- (iv) to grant or renew AWP machine permits in a specified class of premises subject to a condition limiting the number of machines permitted.

5.17 Applications for S.6 Orders and S.16 Permits can be decided on the merits of the case.

6.0 COMMENTS OF THE HEAD OF LEGAL SERVICES

6.1 The legal service has been consulted and asks the Committee to note the recommended change to the terms of reference of the Licensing Sub-Committees, which is referred to at paragraph 2.3 herein.

7.0 COMMENTS OF DIRECTOR OF FINANCE

7.1 The income generated from the granting of these permits will contribute towards the income target from licensing fees and charges, and will mainly be used to off-set expenses incurred in the issuing and renewal of permits.