

Appendix 8

Gambling Commission advice on the Principles to be applied when considering applications

Part 5: Principles to be applied by licensing authorities in Exercising their Functions

5.1 In exercising most of their functions under the 2005 Act, licensing authorities must have regard to the licensing objectives set out in section 1 of the Act. In particular, licensing authorities must have regard to the licensing objectives when exercising their functions in relation to premises licences, temporary use notices and some permits. The licensing objectives are:

- _preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- _ensuring that gambling is conducted in a fair and open way; and
- _protecting children and other vulnerable persons from being harmed or exploited by gambling.

5.2 In considering applications, licensing authorities in England and Wales should take

particular care to bear in mind that these objectives are not the same as those in the Licensing Act 2003. In particular, they do not include considerations in relation to public safety or prevention of public nuisance. The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.

5.3 Section 153 of the Act provides that in exercising its functions under part 8 of the Act (premises licensing and provisional statements), a licensing authority should *aim to permit the use of premises for gambling in so far as it thinks it:*

- (a) in accordance with any relevant code of practice under section 24;
- (b) in accordance with any relevant guidance issued by the Commission under section 25 (ie this document);
- (c) reasonably consistent with the licensing objectives (subject to paragraphs (a) and (b)); and
- (d) in accordance with the statement published by the authority under section 349 (subject to paragraphs (a) to (c)). (See Part 6 of this guidance.)

5.4 Section 153 also makes it clear that in deciding whether or not to grant a licence a licensing authority must not have regard to the expected demand for gambling premises that are the subject of the application. This is a key difference between the 2005 Act and previous legislation on gaming and betting.

5.5 The requirements in section 153 are subject to the licensing authority's power (under section 166) to resolve not to issue casino premises licences. This means that a resolution not to issue a casino premises licence applies regardless of the matters set out in section 153.

Appendix 9

Gambling Commission Advice on the Licensing Objective of Preventing Gambling from being a Source of Crime

5.6 The Commission will play a leading role in preventing gambling from being a source of crime. It will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with providing such facilities. The Act provides the Commission with powers to investigate the suitability of applicants for operating and personal licences, and others relevant to the application. This will provide the Commission with the power to make enquiries about and investigate those who are involved in the control of a company or the provision of gambling. In considering applications for operating and personal licences the Commission will, in particular, take a serious view of any offences involving dishonesty committed by applicants or persons relevant to the application.

5.7 As applicants for premises licences (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued, licensing authorities will not need to investigate the suitability of an applicant. If during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.

5.8 Licensing authorities will need to consider the location of premises in the context of this licensing objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, for example, licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors.

5.9 A licensing authority will need to consider questions raised by the location of gambling premises when:

- _ formulating its statement of licensing policy;
- _ receiving relevant representations to an application;
- _ dealing with applications as a responsible authority in its own right; and
- _ considering applications before it.

5.10 Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. (Although if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.)

5.11 Local authorities are experienced in making judgements in relation to the suitability of premises, particularly those for which they have responsibilities under the Licensing Act 2003, in which context they have wider powers to also take into account measures to prevent nuisance.

5.12 In relation to preventing disorder, licensing authorities have the ability under section 169 of the Act to attach additional conditions to premises licences, and are entitled to include a requirement for door supervision, as provided for in section 178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence. Further information on conditions can be found in Part 9 of this guidance.

5.13 Local authorities should note that in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.

5.14 It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant laws.

Appendix 10

Gambling Commission Advice on Protecting Children and Other Vulnerable Persons from being Harmed or Exploited by Gambling

5.18 With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective talks of protecting children from being 'harmed or exploited by gambling'. That means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

5.19 In relation to casinos, the Commission has issued a code of practice on access to casino premises by children and young persons, as provided for by section 176 of the Act. The code of practice is available as part of the *Licence conditions and codes of practice* on the Commission website www.gamblingcommission.gov.uk. In accordance with that section, adherence to the code will be a condition of the premises licence. (Please see Part 9 of this guidance for more information.)

5.20 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission will not seek to define 'vulnerable persons', but it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.

5.21 Licensing authorities will need to consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will need to be balanced against the authority's objective to aim to permit the use of premises for gambling. draft of the code is available from the Cabinet Office website www.cabinetoffice.gov.uk. It is intended that the code will be laid before Parliament during autumn 2007, coming into force on 1 April 2008.

Appendix 11

Gambling Commission Advice on Moral Objections

5.26 Local authorities should be aware that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met.

Appendix 12

Gambling Commission Advice on Premises Licences

7.1 Where an individual or company proposes to offer gambling for which an operating licence is required, and which is premises based, that individual or company will also need to apply for a premises licence.

7.2 Premises licences are issued by the licensing authority with responsibility for the area in which the premises are situated.

7.3 The Act contains no rules about cases where premises lie within more than one authority's area. Such cases are likely to be rare. The Commission would expect an applicant to apply to the licensing authority in whose area the greater or greatest part of the premises is situated; and if another authority receives an application it should discuss with the applicant and the neighbouring authority as to which is the appropriate authority. Ultimately, there is nothing in the Act giving an authority the right to turn down an application because it is responsible for a smaller area of the premises than another authority. However, in such circumstances, the other authority will be a 'responsible authority' in relation to the premises (see Part 8 of this guidance), and will be able to give a view on the application through these channels. Note, this is not the same as the Licensing Act where an application must be made to the authority in which the greater part of the premises is situated (see Annex A).

7.4 Where the premises are located in two or more areas (equally or otherwise), ultimately the applicant may choose which licensing authority to apply to. In the rare cases where such premises exist, it will be important that the licensing authorities concerned maintain close contact about the grant of the premises licence, and subsequent compliance (including inspection powers) and other licensing functions. The licensing authority to which the premises licence application was made will have jurisdiction and the other(s) will need to pass relevant information about the premises to it.

7.5 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:

- (a) casino premises;
- (b) bingo premises;
- (c) betting premises, including tracks and premises used by betting intermediaries;
- (d) adult gaming centres (for category B3, B4, C and D machines); and
- (e) family entertainment centres (for category C and D machines) (note that separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).

7.6 Please see Part 16 of this guidance for more information about gaming machine

Meaning of premises

7.11 In the Act, 'premises' is defined as including 'any place'. Section 152 therefore prevents more than one premises licence applying to any place. But, there is no reason in principle why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, track, or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

7.12 In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

7.13 With the exceptions of the non-gambling area of the regional casino, bingo clubs, tracks on race-days and licensed family entertainment centres, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose developments.

7.14 Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

_ The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also that they are not permitted to be in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.

_ Entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

7.15 The proper application of section 152 means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises could not, for example, be licensed as a bingo hall on week days and a betting shop at weekends.

Division of premises and access between premises

7.16 An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. For casinos, bearing in mind the wide definition of a street, access might be from a foyer or other area which the public might enter for purposes other than gambling. The precise nature of this public area will depend on the location and nature of the premises. Licensing authorities will need to consider whether the effect of any division is to create a machine shed-type environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities available if desired. Licensing authorities should, in particular, remember that where they have concerns about the use of premises for gambling, these may be addressed through licence conditions.

7.17 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out the access provisions for each type of premises. The broad principle is that there can be no access from one licensed gambling premises and another, except between premises which allow access to those under the age of 18. Under-18s can go into family entertainment centres, tracks, pubs and some bingo halls and clubs. So access is allowed between these types of premises only.

7.18 It should be noted that the Mandatory and Default Premises Licence Regulations define street as 'including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not'. This is to allow access, for example, to casinos from hotel foyers.

7.19 There is no definition of 'direct access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (eg a street or cafe), which the public go to for purposes other than gambling, for there to be shown to be no direct access.

7.20 The relevant access provisions for each premises type is as follows:

All casinos

- _ the principal entrance to the premises shall be from a street (as defined above);
- _ no entrance to a casino shall be from premises that are used wholly or mainly by children and/or young persons;
- _ no customer shall be able to enter a casino directly from any other premises which holds a gambling premises licence; and
- _ at the regional casino only, there should be an opaque barrier between the gaming area and the parts of the premises where children have access.

Adult gaming centres

- _ no customer shall access the premises directly from any other licensed gambling premises.

Betting shops

- _ access must be from a street (as defined above) or from other premises with a betting premises licence; and
- _ no direct access from a betting shop and another premises used for the retail sale of merchandise or services, ie there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a cafe – the whole area would have to be licensed.

Tracks

- _ no customer shall be able to access the premises directly from
 - a casino; or
 - an adult gaming centre.

Bingo premises

- _ no customer shall access the premises directly from;
 - a casino;
 - an adult gaming centre; or
 - a betting premises, other than a track.

Family entertainment centres

- _ no customer shall access the premises directly from:
 - a casino;
 - an adult gaming centre; or
 - a betting premises, other than a track.

Appendix 13

Gambling Commission Advice on Off-track Betting

Part 19: Betting premises

19.1 The Act contains a single class of licence for betting premises. However, within this single class of licence, there are different types of premises which require licensing. This part of the guidance discusses off-course betting, that is betting that takes place other than at a track in what is currently known as a licensed betting office. Tracks are discussed in Part 20 of this guidance. Please note that there are also betting offices on tracks, that have a separate premises licence from the track licence. Those are also discussed in Part 20.

19.2 The Act also permits betting intermediaries to operate from premises, although betting intermediaries usually offer their services via remote communication, such as the internet. In principle, however, there is nothing to stop a betting intermediary applying for a betting premises licence to offer intermediary services upon the premises.

19.3 Under the Gambling Act licensing authorities are responsible for issuing and monitoring premises licences for all betting premises. The issuing of premises licences is discussed in Part 7 of this guidance.

Protection of children

19.4 Children and young persons will not be able to enter premises with a betting premises licence, although special rules apply to tracks, as explained in Part 20 of this guidance.

Betting in casinos

19.5 Gambling facilities may not be offered in betting premises between the hours of 10pm on one day and 7am on the next day, on any day.

Betting premises licence conditions

19.6 Part 9 of this guidance discusses the conditions that may or may not be attached to premises licences, and those that are attached automatically. The Secretary of State and Scottish Ministers have set out in regulations the conditions relating specifically to betting premises. The paragraphs below discuss these conditions, both mandatory – those that must be attached to betting premises; and default – those that will apply unless the licensing authority chooses to exclude them using its powers under section 169.

Mandatory conditions attaching to betting premises licences

19.7 A notice shall be displayed at all entrances to the betting premises stating that no person under the age of 18 will be admitted.

19.8 There should be no access to betting premises from other premises that undertake a commercial activity (except from other premises with a betting premises licence including tracks). In addition, the entrance to a betting shop should be from the street (defined as any bridge, road, lane, footway, subway, square, court, alley or passage – including passages through enclosed premises such as shopping centres – whether a thoroughfare or not).

19.9 Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.

19.10 No apparatus for making information or any other material available in the form of sounds or visual images may be used on the licensed premises, except where the matter seen or heard is a sporting event and bets may have been affected on the premises in relation to that event. Betting operator-owned TV channels will be permitted.

19.11 No music, dancing or other entertainment is permitted.

19.12 The consumption of alcohol is prohibited on the premises.

19.13 The only publications that may be sold on the premises are racing periodicals or specialist betting publications.

19.14 Clear and accessible information about the terms on which a bet may be placed should be displayed in a prominent position on the premises.

Default conditions attaching to betting premises licences

19.15 Gambling facilities may not be offered in betting premises between the hours of 10pm on one day and 7am on the next day, on any day.

Gaming machines

19.16 Section 172(8) provides that the holder of a betting premises licence may make

available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines. See Part 16 of this guidance for information on gaming machines.

Betting machines (bet receipt terminals)

19.17 Section 235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These 'betting machines' are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. Such betting machines merely automate the process that can be conducted in person and therefore do not require regulation as a gaming machine.

19.18 However, where a machine is made available to take bets on virtual races (that is, images generated by computer to resemble races or other events) that machine is a gaming machine and does count towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

19.19 Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of employees to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

Appendix 14

London Borough of Tower Hamlets Gambling Policy Definition of vulnerable person (1.46)

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

Appendix 15

London Borough of Tower Hamlets Gambling Policy

6 Betting Premises

6.1 Betting Machines - This licensing authority will have regard to the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.