

SUBJECT: Merton Council's Licensing Policy Statement on Gambling

LEAD OFFICER: Head of Planning and Public Protection – Steve Clark

LEAD MEMBER: Councillor David Simpson

KEY DECISION REFERENCE NUMBER: N/A

RECOMMENDATIONS:

- 1) The Licensing Committee are requested to consider the Merton's Draft Licensing Policy Statement on Gambling.**
- 2) The Committee are requested to recommend that the Full Council endorse the final Draft Policy as suitable for the purposes of statutory consultation.**

1. EXECUTIVE SUMMARY AND PURPOSE OF REPORT

- 1.1 A Gambling Bill was put before Parliament in October 2004, received Royal Assent on 07 April 2005 and became the Gambling Act 2005.
- 1.2 The Gambling Act 2005 in some respects mirrors the format and logistics of the Licensing Act 2003, giving local authorities similar responsibilities for the licensing of gaming premises. However, premises where gambling occurs such as Betting Shops, Bingo Halls, Amusement Arcades, Public Houses etc are long established and therefore likely to be far less contentious than was the case with the new licensing regime implemented under the Licensing Act 2003.
- 1.3 Local authorities will be responsible for issuing Premises Licences (for Bingo Halls, Betting Shops etc). The Sub-Committee set up under the Licensing Act 2003 will be responsible for dealing with applications under the Gambling Act 2005.
- 1.4 Merton Council is required to prepare and a Draft Policy Statement, publish for consultation (for a suggested period of 12 weeks), consider the responses and resolve to adopt the Licensing Authority's Gambling Policy Statement before 31 January 2007.

2. DETAILS

The Objectives

- 2.1 The law on gambling is now more than 30 years old. The current laws do not cater for modern technology or the Internet and have not kept up with changes in society. The Government has reviewed these laws and has drafted new legislation to modernise regulation and ensure that it can respond flexibly to future technological and market developments. In doing so it will continue to ensure that the main objectives for gambling are maintained, namely to:
- **Prevent gambling being a source of crime and disorder;**
 - **Ensure that gambling is conducted in a fair and open way; and**
 - **Protect children and other vulnerable persons from being harmed or exploited by gambling.**
- It should be noted that the Licensing Objectives for Gambling do not include “**Public Safety**” or “**the Prevention of Public Nuisance**”.

Purpose of the Reforms

- 2.2 The intentions are to:
- i) Replace three Acts of Parliament and subordinate legislation governing the conduct of gambling in Great Britain and consolidate them into one Act: the Betting Gaming and Lotteries Act 1963; and the Gaming Act 1968 and the Lotteries and Amusements Act 1976;
 - ii) Set up a new regulator, the Gambling Commission, with powers to deal with gambling offences;
 - iii) Extend choice for adult gamblers;
 - iv) Ensure that consumers are fully informed about the products they use and the risks involved;
 - v) Instigate a sustainable programme of related research and effective programmes for the prevention and treatment of problem gambling;
 - vi) Set up a system to regulate on-line gambling;
 - vii) Ensure that systems are in place to protect children and the vulnerable.

Local Authority Role

- 2.3 Premises Licences will be granted by Licensing Authorities and may authorise the provision of facilities on bingo premises; betting premises, including tracks; adult gaming centres; family entertainment centres and casino premises
{ NB - On 5 April 2006 Merton Council adopted a resolution under S166 of the Act not to issue casino licences within Merton or allow operators to make applications for premises licences for casinos}.
- 2.4 In addition, Licensing Authorities will be responsible for the issue of Notices, Permits and Registrations in accordance with the Act. These are: Club Gaming Permits; Prize Gaming Permits; Temporary Use Notices; Occasional Use Notices and the Registration of Small Society Lotteries.
- 2.5 The Licensing Authority must maintain a register of all premises licences issued and that the register must be available for inspection by members of the public.
- 2.6 If representations are made opposing a licence application, there must be a

hearing before the Licensing Sub-Committee unless the representations are withdrawn or the licensing authority determine that the representations are:

a) Vexatious b) Frivolous or c) Will certainly not influence the authority's determination of the application.

If the Licensing Authority decide a representation falls within one of the above categories and intend to make a decision on the application without a hearing they must, as soon as is reasonably practicable, notify any person who made a representation.

On considering the application the licensing authority, whether at the hearing or not, shall: a) Grant it or b) Reject it.

NB – With regard to Planning permission and other consents:

(1) In making a decision in respect of an application, a Licensing Authority shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building.

(2) A decision by a Licensing Authority shall not constrain any later decision by the authority under the law relating to planning or building.

- 2.7 A Premises licence may be reviewed by the Licensing Authority of its own volition or following the receipt of an application for a review which is essentially a request from a third party to the Licensing Authority to review a particular licence. It should be noted that reviews cannot be delegated to an Officer of the Licensing Authority - the lowest level of permitted delegation being the Licensing Sub-Committee.
- 2.8 For each 3 year period the Licensing Authority have to prepare a statement of the principles that they propose to apply in exercising their functions under the Act and publish that statement. They must review that statement from time to time and, if necessary, review it. Under the Act the policy must be made by the Full Council. Merton's Draft Licensing Policy Statement on Gambling is attached as Appendix 1.

Consultation and Further Consideration by Merton

- 2.9 Following the Licensing Committee's approval of the Draft Policy Statement, the Full Council will be asked to consider this matter on 12 July 2006. The adopted Draft Policy Statement on Gambling will then be consulted upon. The consultation period will commence on 01 August and the last day for responses will be 02 October 2006.
- 2.10 Those organisations and persons to be consulted will include:
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the authority's area or who may become holders of a premises licence;
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act; i.e. representatives of residents associations;
 - A range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care

trusts, and advocacy organisations (such as the Citizen’s Advice Bureau and trade unions);

- Businesses who are, or will be holders of a premises licence;
- organisations named as responsible authorities in the Act.

2.11 At the end of the consultation period, the responses will be analysed, the Draft Policy Statement amended, if necessary, and a further report will be considered by the Licensing Committee on 01 November 2006.

2.12 The finalised Draft Policy Statement and the recommendations of the Licensing Committee will then be considered by the Full Council on 29 November 2006, who will be requested to adopt it as Merton’s Licensing Policy Statement on Gambling.

3. ALTERNATIVE OPTIONS

3.1 The adoption of Merton’s Policy Statement and implementation of the new licensing regime for Gambling is a statutory duty, there are therefore no alternative options.

4. FINANCIAL IMPLICATIONS

4.1 The necessary staffing resource is already in place through the appointment of a Specialist Gambling/Licensing Officer, who will lead on this new discipline. The cost of this has been met from the existing budgetary provision.

4.2 The statutory fees for Notices, Permits, Registrations and Licences have not yet been determined by the Secretary of State. However, because of the gambling industry’s financial well being and the paucity of the fee levels set in respect of the Licensing Act 2003, it is hoped that the fees will be more realistic and the burden on local authorities will be truly “cost neutral”.

5. LEGAL IMPLICATIONS AND STATUTORY PROVISION

5.1 The legal implications are incorporated in the body of the report.

6. HUMAN RIGHTS AND EQUALITIES IMPLICATIONS

6.1 It is not envisaged that there will be any Human Rights issues arising from the implementation of this Act and any Equality issues will be adequately covered by Merton’s existing policies.

7. CONSULTATION UNDERTAKEN

7.1 None to date. However, there will be wide consultation following adoption of the Draft Policy Statement.

APPENDICES – The following appendices form part of this report:

Appendix 1 Draft Licensing Policy Statement on Gambling

BACKGROUND PAPERS – The papers used to compile this report were:

Gambling Act 2003; Gambling Commission Guidance to Local Authorities

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Further information about Merton Council can be obtained from its web site
(www.merton.gov.uk)

London Borough Of Merton

DRAFT Statement of Gambling Policy

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THE LICENSING OBJECTIVES

- 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 persons from being harmed or exploited by gambling

1 STATEMENT OF LICENSING POLICY

1.1 Introduction

London Borough Of Merton is the Licensing Authority under the Gambling Act 2005. This will result in the Council becoming responsible for granting premises licences in the Borough in respect of:-

- ❖ Casino premises;
- ❖ Bingo premises;
- ❖ Betting premises, including tracks;
- ❖ Adult Gaming Centres;
- ❖ Family Entertainment Centres.
- ❖ Club Gaming Permits
- ❖ Club Machine Permits
- ❖ Small Lotteries
- ❖ Temporary Use Notices
- ❖ Occasional Permissions

The Gambling Act 2005 requires the Council to prepare and publish a “Statement of Licensing Policy” that sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

This draft “Statement of Licensing Policy” has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. It is intended to be a discussion document leading to adoption by the London Borough Of Merton of a formal Statement of Licensing Policy, after having due regard to any responses from those consulted on this draft policy statement.

The formal Statement of Licensing Policy will be available on Merton’s website at www.merton.gov.uk/licensing/Gambling

This policy will come into effect on 31st January 2007 and will be reviewed as necessary, and at least every three years from the date of its adoption.

The London Borough Of Merton will aim to permit the use of premises for gambling as set out in the Act.

1.2 The London Borough Of Merton

The London Borough Of Merton is one of the larger metropolitan boroughs located in South East London and is predominantly urban in character. The Borough is composed principally of 5 town centres rather than a single, dominant centre and these form the basis of the Council's community focus. The town centres are Wimbledon, Raynes Park, Mitcham, Colliers Wood and Morden.

At the last count the population of the borough was just under 190,000. As far as the economy is concerned, Merton is still heavily reliant on leisure and service industries, which form almost 60% of total employment within the borough.

Merton is also densely populated. In contrast, the Borough has one of the highest proportions of parks and open spaces within the London area, some one third of them being green field sites.

1.3 Glossary of Terms

Within this draft Statement of Policy, the following words and terms are defined as stated:

Licensing Objectives:	As defined at the beginning of this Policy
Council:	London Borough Of Merton
Licences:	As stated in section 1.5 below
Applications:	Applications for licences and permits as defined in section 1.5 & 1.6 below
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice made under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by the Council

Responsible Authority:

For the purposes of this Act, the following are responsible authorities in relation to premises:

1. The London Borough Of Merton
2. The Gambling Commission
3. Metropolitan Police at Wimbledon Police Station
4. Planning Department
5. Environmental Protection (the authority which has functions in relation to pollution to the environment or harm to human health)
6. Merton Local Safeguarding Children Board (LSCB) & Merton Children Services Authority
7. HM Customs and Excise
8. The London Fire and Emergency Planning Authority
9. Any other person prescribed in regulations made by the Secretary of State

Interested Party:

For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, that person:-

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) Has business interests that might be affected by the authorised activities;
- c) Represents persons who satisfy a) or b) above.

1.4 Types of Licence

This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for:-

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act;
4. Registrations as required under the Act.

1.5 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming Permits;
9. Occasional Use Notices
10. Temporary Use Notices;
11. Registration of small society lotteries.

1.6 General Principles

Nothing in this Statement of Policy will:-

1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; or
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application without conditions, other than the mandatory conditions **or default conditions** laid down by the Secretary of State. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, and any conditions applied will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

All applicants for Premises Licences will be required to set out how they will promote the licensing objectives and what measures they intend to employ to ensure compliance with them.

When determining an application to grant a Premises Licence or review a Premises Licence, **the Licensing Authority will have regard to** the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will be considered on its merits. Therefore, if an applicant can effectively demonstrate how they might **promote** licensing objective concerns, this will be taken into account.

Licensing is about the control of licensed premises and temporary use notices within the terms of the Act. Conditions may be attached to licences that will address matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the area where the premises are located.

In determining any application the Council may not have regard to the expected demand for the facilities, which it is proposed that the premises intend to provide.

The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues that can occur away from licensed premises, **that may give rise to objections** including:-

1. Planning controls;
2. Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
3. Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
4. The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

Objectors will be required to relate their objection to one of more of the Licensing Objectives, as specified in section 1.4 above, before the Council will be able to consider it. An application for a review of a licence must be made on the prescribed form.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups **and to promote equality of opportunity for people with disabilities**.

1.7 Transitional Arrangements

During the transitional arrangements period specified in the Act, a Premises Licence will be issued to persons applying under an Order made by the Secretary of State under Schedule 18 of the Act, who have supplied the required information, documentation and fee. Issue of licences will be on the basis of existing permissions being continued. If however, the Police make a representation that the conversion of an existing licence would undermine the crime prevention and disorder objective, the licence will be referred to the Council's Licensing Sub-Committee for consideration.

1.8 Consultees

The Statement of Licensing Policy will be subject to formal consultation with:-

- The Metropolitan Police Licensing Sergeant at Wimbledon Police Station;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the authority's area **or who may become holders of a premises licence**
- Businesses who are, or will be, holders of a premises licence
- Organisations named as responsible authorities in the Act
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act; **ie representatives of residents associations currently notified to the licensing authority, Wimbledon Civic Forum, Local Trade Associations**
- **Other organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)**
- **Joint Consultative Committee for Ethnic Minorities**

1.9 Information exchange

In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will consider the establishment of protocols where it considers this necessary. In exchanging such information, the Council will conform to the requirements of Data protection and Freedom of Information legislation in accordance with the Council's existing policies. The authority will act in accordance with the relevant legislation and guidance from the Gambling Commission and will adopt the principals of better regulation.

Details of those persons making representations will be made available to applicants **and other interested parties**, to allow for negotiation and in the event of a hearing will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

2 LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:-

1. Section 17 of the Crime and Disorder Act 1988;

2. Human Rights Act 1998;
3. Health and Safety at Work Act 1974;
4. Environmental Protection Act 1990;
5. The Anti-Social Behaviour Act 2003;
6. The Race Relations Act 1976 (as amended);

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

2.2 Relationship with Planning Policies

When determining an application, the Licensing Authority cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval.

A decision by the licensing authority under this Act shall not constrain any later decision by the authority under the law relating to planning or building.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

2.3 National Strategies

The **Licensing Authority** will also seek to discharge its **functions** identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

2.4 Local Strategies and Policies

Where appropriate, the Council will consider applications with reference to other adopted local strategies and policies, including the following:-

1. The Council's Corporate Strategy;
2. The Community Safety Strategy;
3. Enforcement Policy.

2.5 Integrating Strategies

There are many stakeholders involved in the Leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

The Council recognises in particular the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy.

Relevant plans and strategies include:-

- ❖ Crime and Disorder Strategy – The Council will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.

- ❖ Local Transport Plan – the Council aims to work with the local transport authority and will consider ways in which the public can be dispersed from licensed premises and events so as to avoid disturbance, crime and disorder.

- ❖ Racial Equality – The Council is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. **The Licensing Authority will undertake an impact assessment through consultation with the Joint Consultative Committee for Ethnic Minorities.**

- ❖ Human Rights – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Council will have particular regard to the following provisions of the European Convention on Human Rights, **in particular:-**
 - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for his home and private and family life;
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.

- ❖ Proper integration will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.

- ❖ Tourism and Town Centre Management – The Council aims to promote a high quality thriving night-time economy.
- ❖ The Council will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.
- ❖ Economic Strategies – The Council will ensure that the Licensing Committee is appraised of the employment situation in the area and the need for new investment and employment where appropriate.
- ❖ Enforcement Policy – All licensing enforcement will be conducted in accordance with the regulatory compliance code and Licensing Enforcement Procedures.

In order to avoid duplication with other statutory regimes, the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

3 DECISION MAKING

3.1 Terms of Reference

A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

Every determination of a licensing decision by the Licensing Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable in the form of a Notice of Determination. Such Notices of Determination shall also be posted on the Council's Licensing website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

The Council's Licensing Officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by **Licensing** Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Sub-Committee. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case. **Under**

the Gambling Act there is no right of appeal. However, there may be a right of appeal under the Human Rights Act.

3.2 Allocation of Decision Making Responsibilities

The Council has established a Licensing Committee to discharge all Licensing functions

The Licensing Committee has delegated responsibilities for determining certain administrative functions in respect of the Council's approach to this Policy. Therefore the Licensing Committee may decide to adopt the following:

- Enforcement Concordat
- Information Sharing Protocol
- Charges for Pre-application Advice
- Other matters relating to the administration of the Licensing Authority's functions under this Act

The Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Licensing Officers.

Appendix A sets out a table showing the agreed delegation of functions & decisions in respect of the full Council, Sub-Committee and Officers.

Such delegation does not preclude Officers from referring any application to the Licensing Sub-Committee if they consider it appropriate.

3.3 Licensing Reviews

Regulations will be made by the Secretary of State under Section 160 of the Act that will require applicants for premises licences to notify to the responsible authorities and other (as yet to be determined) persons. Whilst these authorities will have legitimate interests in aspects of the application, the Licensing Authority must ensure that it does not take into account concerns from these bodies if they are not relevant to the application for a premises licence under the Act.

Examples of representations from such bodies that may not be taken into account are as follows (but these examples are not exhaustive):

- There are already too many gambling premises in the locality
- The proposed premises are a fire risk
- The location of the premises is likely to lead to traffic congestion
- The premises will cause crowds of people to congregate in one area, which may be noisy and a nuisance

The Council will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives.

Due consideration will be given to all relevant representations unless they fit the following:-

- a) The grounds are frivolous
- b) The grounds are vexatious
- c) The grounds are irrelevant
- d) The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence
- e) The grounds are substantially the same as the grounds cited in a previous application relating to the same premises
- f) The grounds are substantially the same as representations made at the time the application for a premises licence was considered and there has been no change in the circumstances.

The Act permits the Licensing Authority to review a premises licence if it considers it appropriate.

Representations may include issues relating to the following:-

1. Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
2. Use of licensed premises for the sale and distribution of illegal firearms;
3. Use of licensed premises for prostitution or the sale of unlawful pornography;
4. Use of licensed premises as a base for organised crime activity;
5. Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
6. Use of licensed premises for the sale of smuggled tobacco or goods;
7. Use of licensed premises for the sale of stolen goods;
8. Children and/or vulnerable persons being put at risk.

4 LOCAL STANDARDS

4.1 Applications

An application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR, has made an application for an operating licence which has not yet been determined.

Applications for the grant, transfer or variation of a Premises Licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule. The applicant may ask the Council for advice as to the scope of information to be provided. **The Council may levy a charge where more in depth or complex advice and assistance is requested.**

The level of detail to be provided will be advised by the Council and will be proportional to the scale and nature of the application made.

Definitions of “Responsible Authorities” and “Interested Parties” who are able to make representations under this Act can be found in the glossary of terms in section 1.3.

4.2 Assessment of Need

Unmet demand for gambling establishments or facilities is not a criterion that will be taken into consideration when determining an application for a Premises Licence under the Gambling Act 2005. Demand is specifically precluded within the Act.

4.3 Conditions

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Council will draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case.

4.4 Enforcement

The Council is a signatory to the Enforcement Concordat and will follow the principles set out in it. The concordat is based around the principles of consistency, transparency and proportionality.

The Enforcement Concordat, **attached as Appendix C**, proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way

of a written warning. More serious offences may result in the issue of a Formal Caution, a referral to Sub-Committee, or a referral for prosecution.

The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.

The Council will seek to work actively with the Police in enforcing licensing legislation and intends to establish protocols with the Metropolitan Police on enforcement issues to ensure an efficient deployment of police and council officers.

Such protocols will be agreed by the Licensing Committee.

4.5 Casinos

There are currently no casinos operating within the Borough.

On 5 April 2006 Merton adopted a resolution under S166 of the Act not to issue casino licences within Merton or allow operators to make applications for premises licences for casinos.

4.6 Bingo

The Licensing Authority may issue a Bingo premises licence, which will authorise the following gaming machines:

- 1 A maximum of 4 Category B3 or B4 machines
- 2 An unlimited number of Category C & D machines

4.7 Betting Offices

The Licensing Authority may issue a premises licence to Betting Offices, which will authorise the following gaming machines:

- 1 A maximum of 4 machines of Category B, C or D

4.8 Family Entertainment Centres (Licensed)

The Licensing Authority may issue a premises licence to Family Entertainment Centres (after a Gaming Machine licence has been granted by the Gaming Board) , which will authorise the following gaming machines:

- 1 An unlimited number of Category C & D machines
- 2 Category C machines must be located in an adult area only

4.9 Family Entertainment Centres (Unlicensed)

It should be noted that the term “unlicensed” in this definition means premises that do not require an operators licence to be granted by the Gaming Commission.

The Licensing Authority may issue a premises licence, which will authorise the following gaming machines:-

- 1 Unlimited numbers of Category D machines

5 PREVENTION OF CRIME AND DISORDER OBJECTIVE

Merton’s Licensing Authority places considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. A high standard of control is expected to be exercised over licensed premises.

Merton’s Licensing Authority will, when determining applications, consider whether the grant of a Premises Licence will result in an increase in crime and disorder.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council’s Licensing Officers and The Licensing Sergeant at Wimbledon Police Station before making a formal application.

In considering licence applications, the Licensing Authority will particularly take into account the following:-

1. The design and layout of the premises
2. The training given to staff in crime prevention measures appropriate to those premises
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks
5. The likelihood of any violence, public order or policing problem if the licence is granted

6 ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY OBJECTIVE

Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence). As the Gambling Commission grants Personal Licences and Operating Licences, enforcement of these matters is the responsibility of the Gambling Commission.

7 PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS OBJECTIVE

7.1 Access to Licensed Premises

With limited exceptions, the access of children and young persons to those gambling premises, which are adult only environments, will not be permitted.

The **Council** formally recognises Merton's Local Safeguarding Children Board and **Community Care Services** as the proper agencies in respect of the protection of children and **vulnerable persons** from being harmed or exploited by gambling.

The Licensing Sub-committee will judge the merits of each individual application before deciding whether to impose conditions to protect children and vulnerable persons on particular categories of premises. This may include such requirements as:-

1. Supervision of entrances;
2. Segregation of gambling areas from areas frequented by children;
3. Supervision of gaming machines in non-adult gambling specific premises.

The 2005 Act provides for a Code of Practice on access to Casino premises by children and young persons but Merton has adopted a policy not to permit casinos in the Borough.

7.2 Vulnerable Persons

The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that "vulnerable persons" include:

1. People who gamble more than they want to;
2. People who gamble beyond their means;
3. People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

In addition to the responsible authorities and specifically with regard to the protection of vulnerable persons from being harmed or exploited by gambling, **Merton will consult with Community Care Services via a joint arrangement with the Merton Local Safeguarding Children Board.**

8 COMPLAINTS AGAINST LICENSED PREMISES

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they fit the exceptions in 3.3 sub-paragraphs A - F.

FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Licensing Policy or the application process can be obtained from:-

Licensing Team
London Borough Of Merton
Merton Civic Centre
London Road
Morden SM4 5DX

Tel: 0208 545 3992

E-mail: licensing@merton.gov.uk

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP website: www.gamblingcommission.gov.uk

Tel: 0207 306 6219

APPENDIX A

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

APPENDIX B GAMING MACHINE CATEGORIES

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2 <i>** See below for definition</i>	£100	£500
B3	£1	£500
B4	£1	£500
C	50p	£25
D	10p or 30p when non-monetary prize	£5 cash or £6 non-monetary prize

**** These machines are “Fixed odds betting terminals(FOBTs)”**

The government is satisfied that FOBTs should comprise a separate sub-category (B2) of gaming machine offering a maximum prize of £500 with a maximum stake of £100 per game (£15 per chip) and that they should only be available in Casinos and Licensed Betting Offices.

The Government remains concerned about a possible connection between FOBTs and problem gambling. Pending the outcome of independent research into FOBTs, the DCMS has said that FOBTs remain on probation. The first stage of a 2-year independent review was submitted to the DCMS in December 2005 by the Association of British Bookmakers.

APPENDIX C ENFORCEMENT CONCORDAT

Policy and Procedures

This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy.

We are committed to these aims and to maintaining a fair and safe trading environment.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognize that most businesses want to comply with the law. We will, therefore, take care to help

business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety.

We have therefore adopted the central and local government Concordat on Good Enforcement. Included in the term 'enforcement' are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.

Policy

Standards

In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to

Receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

Openness

We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting

business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

Helpfulness

We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice/information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimize unnecessary overlaps and time delays.

Complaints

We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

Proportionality

We will minimize the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action. We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

Consistency

We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgment in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS) and the Local Authority National Type Approval Confederation (LANTAC).

Procedures

Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over

what time-scale and making sure those legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days and, in all cases, within 10 working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).