

Merton Council

Licensing Committee

Membership:

Councillors

John Bowcott (Chair)

Steve Austin

Jeremy Bruce

Richard Chellew

Philip Jones

Gilli Lewis-Lavender

Russell Makin

Barbara Mansfield

Judy Saunders

David Simpson

Gregory Udeh

Martin Whelton

Ron Wilson

A meeting of the Licensing Committee will be held:

Date: 1 November 2006

Time: 19:15

Venue: Committee Rooms B & C

Merton Civic Centre, London Road, Morden SM4 5DX

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda and the decision making process contact Colin Millar, Democratic Services, 020 8545 3616 or e-mail democratic.services@merton.gov.uk Further information about Merton Council can be found on its web site www.merton.gov.uk

Licensing Committee

1 November 2006

1. Declarations of Interest (See note¹ at end of agenda)
2. Apologies for Absence
3. Minutes of the meeting held on 13 June 2006 3
4. Merton Council's Licensing Policy statement on gambling 5

It is anticipated that there may be another item to be considered by the Committee. A supplementary agenda will be despatched in due course if this is the case.

Notes:

*(1) Members are advised to make declarations of **personal or prejudicial** interests they may have in relation to any item on this agenda. Members may make their declaration either under this item or at any time it becomes apparent that they have an interest in any particular item.*

*(2) If a Member believes that their interest is **prejudicial** they should leave the meeting while the item is discussed. If in doubt, Members are advised to seek advice from the Head of Civic and Legal Services prior to the meeting.*

This agenda is available online at http://www.merton.gov.uk/meetings?event_id=1819

LICENSING COMMITTEE

13 JUNE 2006

19:15 TO 21:00

PRESENT: Councillors John Bowcott (Chair), Steve Austin, Jeremy Bruce, Richard Chellew, Gilli Lewis-Lavender, Russell Makin, Barbara Mansfield, Judy Saunders, David Simpson, Gregory Udeh and Martin Whelton

ALSO PRESENT: Councillor Krysia Williams
Steve Clark (Head of Planning and Public Protection), Richard Nash (Licensing Manager), Solomon Agutu (Legal Services), Colin Millar (Democratic Services)

Apologies for absence were received from: Councillors Philip Jones and Ron Wilson

1 APPOINTMENT OF VICE CHAIR

RESOLVED: That Councillor Steve Austin be appointed vice-chair

2 MINUTES OF THE MEETING HELD ON 15 MARCH 2006

RESOLVED: That the minutes are agreed as a correct record

3 MERTON COUNCIL'S LICENSING POLICY STATEMENT ON GAMBLING

Officers clarified that the Lead Member for this report should have been shown as the Chair of the Committee as this was a non-executive matter.

Members discussed the draft gambling policy and raised various points for clarification/amendment prior to submission to Council for approval.

- Borough description
- General use of English to be checked throughout
- Reference to ward councillors not sitting on sub-committees to be removed
- Police consultee to be the Borough commander

On the question of publication of representations received on applications the Democratic Services Officer explained that current practice on Licensing Applications was that all parties to the hearing received copies of all applications, notices and representations but that publication to the public domain was restricted to the application and representations or notices from Statutory Authorities.

Representations from members of the public were withheld from the public domain as they contained private addresses and other details.

RESOLVED: (1) That the current practice of publication of applications, notices and

LICENSING COMMITTEE
13 JUNE 2006

representations outlined above is adopted by the Committee as its publication policy in respect of applications dealt with under both the Licensing Act 2003 and the Gambling Act 2005.

(2) That the consultation period is to run from 17 July for 12 weeks.

(3) That the draft gambling policy statement, amended in line with Committee's comments, be recommended for adoption by the Council for the purposes of consultation.

4 EXCLUSION OF THE PUBLIC

RESOLVED: That the press and public be excluded from the meeting for the following item of business on the grounds that it discloses advice from Counsel in connection with legal proceedings which may be taken by the authority.

5 DELEGATION OF AUTHORITY TO OFFICERS

The Committee's instruction to its legal representatives in the case before it is recorded in an exempt minute.

RESOLVED: That the Licensing Committee appoints a sub-committee of 8 members, with a quorum of 4 to deal with any future instructions on costs that are required. The sub-committee to meet as and when required.

The membership of the sub-committee is

Conservative (4 members): John Bowcott, David Simpson, Richard Chellew and Gilli Lewis-Lavender

Labour (3 Members): Martin Whelton, Gregory Udeh, Steve Austin

Merton Park Independent Resident (1 Member): Krysia Williams (dependent on Council's anticipated appointment of Councillor Williams to the Licensing Committee on 12 July)

Committee: LICENSING COMMITTEE

Date: 1 NOVEMBER 2006

Agenda item: Public Session

Wards: All Wards

Subject: Merton Council's Licensing Policy Statement on Gambling

Lead officer: Head of Planning & Public Protection - Steve Clark

Lead member: Chair of Licensing Committee - Councillor John Bowcott

Key decision reference number: N/A

Urgent report: N/A

Recommendations:

- 1) Merton's Licensing Committee is requested to consider the consultation responses and the consequential amendments to the Council's Draft Licensing Policy Statement on Gambling.**
- 2) The Committee is requested to agree the Final Draft Policy Statement and recommend that Merton Council adopt it as the Gambling Policy Statement for this Local Authority.**

1. Purpose of report and executive summary

- 1.1 Merton Council is required to adopt a Licensing Policy Statement on Gambling by 30 April 2007.
- 1.2 On 13 June 2006, the Licensing Committee considered the Draft Policy Statement, sought minor amendments and agreed that it should be put forward for the consideration of the Full Council.
- 1.3 On 12 July 2006, the Full Council approved the Draft Policy as being suitable for the purposes of statutory consultation. The 12-week consultation period commenced on 17 July and the last day for responses was 08 October 2006.
- 1.4 The Licensing Committee is requested to agree the Final Draft Policy Statement and recommend that Cabinet and Merton Council adopt it as the Gambling Policy Statement for this Local Authority.

2. Details

The Objectives

2.1 The legislation defines 3 objectives for the new gambling legislation:

- 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”.

Local Authority Role

2.2 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}.

Merton Council has approximately 170 such premises.

2.3 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. Merton Council deals with approximately 120 such permissions.

2.4 The following details the additions to the Council’s delegated powers required to be approved by Full Council. It should be noted that the Regulations have yet to be published by the DCMS:

To Licensing Sub-committees

To exercise all of the powers in the Gambling Act 2005 (Hearings) Regulations (when published by DCMS) which may be exercised during the course of a hearing held to determine those applications, notices and representations of the Gambling Act 2005 and for which provisions have not been otherwise made by the Licensing Committee.

To make applications or representations to the relevant licensing authority of which Merton is the responsible authority as defined in the Gambling Act 2005.

The following powers be delegated to the licensing sub-committees where they are in session:

- Dispensing with a hearing where all parties agree that a hearing is unnecessary
- Extending time limits

- Adjourning the hearing
- Arranging for the hearing to be held on a specified additional date(s)
- Excluding the public from all or part of the meeting
- Questioning any party to the hearing
- Consideration of representations or notices
- Determining the relevance of information
- Decision to hear in the absence of a party or parties
- Procedure and conduct of hearings
- Determination of applications
- Rectification of irregularity
- Any other power granted to the Authority under the Act, any Guidance or regulations issued by the Gambling Commission, DCMS and/or the Secretary of State that may be exercised during the course of a hearing held to determine those applications, notices and representations and for which provision has not been otherwise made by the Licensing Committee

To Head of Planning and Public Protection

- Decision on whether an application, notice or representation received by the authority is valid, relevant, frivolous or vexatious in terms of the requirements of the Gambling Act 2005 and any guidance or regulations issued by the Gambling Commission, DCMS and/or the Secretary of State
- Determination of licence applications made under the Gambling Act 2005 that do not require a hearing to be held.

To the Head of Civic and Legal Services

- Issue of notice of hearing
- Dispensing with a hearing (if all parties agree to do so prior to the hearing)
- Extension of time limits where the need to do so is apparent prior to a hearing – in consultation with the Chair of the Licensing Committee
- Rectifying irregularities identified while the Committee or sub-committee is not in session

A chart of these proposed delegations is attached as Appendix 5.

Revision of Policy Statement

- 2.8 The responses were analysed and, where appropriate, amendments were made to the Statement.
- 2.9 Further minor changes of a technical nature were made to the Statement following Members' training on Gambling Reforms and input from Merton's Legal Services. The revised Draft Policy Statement is attached as Appendix 6.
- 2.10 The finalised Draft Policy Statement and the recommendations of the Licensing Committee and Cabinet is scheduled to be considered by the Full Council on 31 January 2007, 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 Consultation undertaken or proposed

- 4.1 As previously indicated, the Gambling reforms are far less contentious than was the case with the earlier licensing reforms for premises providing alcohol, entertainments and late night refreshments.
- 4.2 Merton undertook a comprehensive consultation process contacting local residents, responsible authorities, businesses and trade associations, voluntary groups and Merton's elected Councillors. A total of 301 such persons/organisations were written to. The Draft Policy Statement was also available at local libraries and published on the Licensing web site.
- 4.3 Three (3) responses have been received from:
Merton Local Safeguarding Children Board (LSCB) – attached as Appendix 1
Association of British Bookmakers – attached as Appendix 2
Ruth Merriman, a community worker at Morden Baptist Church – attached as Appendix 3.
An analysis of these responses was carried out and the conclusions are attached as Appendix 4.

5 Timetable

- 01 November 2006 – Licensing Committee consider final draft of Licensing Policy Statement on Gambling
- 18 December 2006 - Cabinet consider final draft of Licensing Policy Statement on Gambling and the Licensing Committee's recommendations
- 31 January 2007 - Full Council consider recommendations of Licensing Committee and Cabinet and adoption of Licensing Policy Statement on Gambling
- 30 April 2007 - Commencement date for new regime

6 Financial, resource and property implications

- 6.1 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.
- 6.2 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", hence no budgetary provision has been made for this new function.

7 Legal and statutory implications

- 7.1 Section 154 of the Gambling Act 2005 provides that the functions of the council as a Licensing Authority are delegated by statute to the licensing committee established under Section 6 of the Licensing Act 2003. This delegation of functions does not include agreeing the statement of Licensing Policy under Section 349. This decision is not delegable. Accordingly, the committee can express a view for the consideration of the cabinet and Full council.

The Licensing Authority Policy Statement under section 349 of the Gambling Act is the shared responsibility of the Cabinet and the Full Council. This is provided for by an amendment to the existing regulations and set out in The Local Authorities (Functions and Responsibilities) (Amendment) England Regulations 2006/886. Accordingly Committee can only refer it's comments to Cabinet so that Cabinet can recommend the Policy to Full Council.

8 Human rights, equalities and community cohesion implications

- 8.1 It is known and accepted that some persons may be harmed or exploited by gambling. Under the new licensing regime for gambling, the third licensing objective of the Gambling Act 2005 has been introduced to address this concern. The third objective stresses the need for:

“ Protecting children and other vulnerable persons from being harmed or exploited by gambling”.

As stated in Paragraph 7.2 of the draft Policy Statement, the Merton Local Safeguarding Children Board is the recognized Responsible Authority with regard to children. They will be empowered to make representations in circumstances where they feel that the particular gambling activity might be to the detriment of children.

There are in existence a number of specialist organizations which have expertise in providing advice and support to other vulnerable (adult) persons. These include local faith groups, Gamblers' Anonymous and Gamcare. Citizens Advice Bureaux also work with clients whose debt problems have been caused or exacerbated by gambling. In addition, the Regulations and Codes of Practice (when implemented) are likely to create offences that relate specifically to the abovementioned vulnerable groups.

Under delegated authority from the Licensing Committee, the Council's Responsible Officer has the authority to make representations against any application made for the grant of a premises licence or to seek a review of a premises that has been granted a licence. Furthermore, in respect of vulnerable persons and Children & Young Persons, the Responsible Officer also has the power to seek a review of any licence granted where matters affecting these groups are brought to the attention of the Licensing Authority

9 Risk management and health and safety implications

9.1 None for the purposes of this report

10 Appendices – The following appendices form part of this report:

Appendix 1 – response from Merton Local Safeguarding Children Board (LSCB)

Appendix 2 – response from Association of British Bookmakers

Appendix 3 - Response from Ruth Merriman, a community worker at Morden Baptist Church

Appendix 4 - Analysis of Gambling Consultation Responses

Appendix 5 - Chart of Delegations

Appendix 6 - Revised Draft Licensing Policy Statement on Gambling

11 Background papers – The following papers have been relied on in drawing up this report but do not form part of the report

11.1 Gambling Act 2003; Gambling Commission Guidance to Local Authorities

12 Contacts

- Report Author:
Richard Nash (Licensing Manager) - Telephone 0208 545 3929
Email address richard.nash@merton.gov.uk
- Meeting arrangements – Democratic Services
Email: democratic.services@merton.gov.uk
Tel: 0208 545 3356/3357/3359/3361/3616
- All press contacts – Merton's Press Office
Email: press@merton.gov.uk
Tel: 0208 545 3181
- London Borough Of Merton:
Address: Civic Centre, London Road, Morden, Surrey SM4 5DX
Tele: 0208 274 4901

13 Useful links

13.1 Merton Council web site www.merton.gov.uk

13.2 Readers should note the terms of the legal information (disclaimer) regarding information on Merton Council's and third party linked websites.

13.3 <http://www.merton.gov.uk/legal.htm>

13.4 This disclaimer also applies to any links provided here.

Appendix 1

-----Original Message-----

From: Howard Baines
Sent: 06 October 2006 14:22
To: Alan Powell
Cc: Terry Hutt
Subject: RE: Gambling Act 2005 - Draft Policy

Alan,

Thanks for your comments and reassuring me that the workload will be minimal!

Just one suggested amendment:

Page 5 under list of responsible authorities, replace

"6. Merton Local Safeguarding Children Board (LSCB) & Merton Children Services Authority"

with

"6. 'Merton Local Safeguarding Children Board (LSCB) & LBM's Community Care Department'".

I note you have changed section 7.2 as suggested to reflect that we (LSCB & Community Care Services) will consider applications jointly. So, when you finalise the contact details for where people should send copies of applications, I suggest it is clear that only one copy needs to go to Merton LSCB for consideration by us and Community Care Services.

Howard

Appendix 2



Licensing Team
London Borough of Merton
Merton Civic Centre
London Road
MORDEN
SM4 5DX

Our ref: MCJ/JMW/103722-1-0

Your ref:

Date: 4 October 2006

E-Mail: mcj@gosschalks.co.uk

BY E-MAIL AND POST

Dear Sirs

re: Draft Gambling Policy

On behalf of the Association of British Bookmakers we are pleased to have an opportunity to respond to your draft Gambling Act licensing policy.

The Association of British Bookmakers

Off-course bookmakers were first recognised in legislation by the Betting and Gaming Act 1960. The industry now consists of approximately 8,500 betting offices in Great Britain, which makes them by far the most numerous type of dedicated gambling facility; the average authority having about 20 betting offices within its area. The Association of British Bookmakers is the representative association for businesses holding nearly 7,000 betting office licences, and will be responding to consultations on all the licensing policies in Great Britain.

Before the advent of the Gambling Act 2005, there was no national regulator for bookmakers. However, the industry has been extremely successful at policing itself. Bookmakers have given rise to no or few regulatory concerns. For example, there are few if any prosecutions of bookmakers or revocations of betting office licences, no suggestion of underage betting in betting offices and no suggestion that betting offices cause nuisance to surrounding users. Crime and disorder is extremely rare in betting offices, and there is no evidence that bookmakers have operated their business in such a way as to exploit the vulnerable. Of course, alcohol is not sold in betting offices. Betting offices have been good neighbours to both residential and commercial occupiers. A primary objective of the ABB has been to help create betting environments in which the public enjoys fair and responsible gambling. It has to a large extent been assisted by the demographics of the industry, in which there are some very large participants, eg Ladbrokes, William Hill, Coral, the Tote and Dones (Betfred). These operators set a high standard, in terms of offices and customer service, which new entrants have naturally striven to match.

The ABB welcomes the new legislation, and the opportunity to work with licensing authorities, so as to consolidate and continue the enormous advances made by the industry, in a way that benefits customers while avoiding regulatory concerns. The ABB hopes and expects that a light touch approach will be taken to the imposition of conditions and regulatory burdens on the industry, save insofar as this is necessary and proportionate in individual cases.

We would take the opportunity to comment on some specific aspects of your policy. You will see that in certain areas we have been sufficiently bold as to suggest wording for the policy. The reason for this is that the ABB's members are keen, so far as possible, to achieve consistency between licensing policies, for the benefit of all involved in the system.

Door Supervision

Because of the success of the betting industry in managing its offices, and because of the general nature of betting clientele, door supervisors are not employed by betting offices. Premises are supervised from the counter. Door supervision has not been operationally required, and neither the licensing justices nor the police have suggested that door supervision is necessary.

We would refer to the Gambling Commission's Guidance at paragraph 9.26. This requires that conditions should only be imposed when they:

- are relevant to the need to make the proposed building suitable as a gambling facility;
- are directly related to the premises and the type of licence applied for;
- are fairly and reasonably related to the scale and type of premises; and
- are reasonable in all other respects.

We would specifically ask that the policy reflect this by stating:

"...there is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate."

Betting Machines

Reference to betting machines is made in section 181 of the Gambling Act 2005. These are machines on the shop floor of the betting office through which a customer can place a bet without having to visit the counter. They should not be confused with fixed odds betting terminals (which will be Category B2 gaming machines under the legislation) or amusement with prize machines ('fruit machines').¹ While up to four FOBTs/AWPs will be found in the great majority of betting offices in the country, the number of betting machines is vanishingly small. And there is no evidence at all that, where they do exist, they are causing any harm. They are machines on which one may place a bet in an adult only environment, not machines upon which rapid gambling may occur. For these reasons,

¹ While FOBTs/AWPs clearly accept bets for the purpose of playing directly on these machines, for instance inserting £20 note into a FOBT to play roulette, the customer cannot use these machines to bet on other events available in the betting shop eg horse/dog races and football matches.

while the section 181 discretion is acknowledged, it is respectfully suggested that the policy state that:

“While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.”

Re-site Applications

Over the last two decades in particular, betting offices have been subject to an evolutionary process of enlargement and improvement to accommodate the more extensive facilities and technology now demanded by their customers, for example more and larger screens, full toilet facilities for male, female and disabled customers, level entrances, comfortable seating, no smoking areas, machines, information terminals and so on. Frequently, this has involved re-siting within the same locality. Under the former regime, such re-sites were positively welcomed by licensing authorities concerned to improve the general level of facilities in their area, and were rarely objected to by competitors. This was recognised in the leading case of *R (Hestview) V Snaresbrook Crown Court* in which Hooper J. stated (para 65):

Likewise, if an application is, in effect, an application for the transfer of a licence from one premises to another close by, with some increase in the size of the customer area, then an authority might well conclude that the grant would not be inexpedient...”

It is hoped that licensing authorities will wish to endorse and support this natural progress and improvement in the industry. It is requested that the policy positively encourage, or at least state that the authority will give sympathetic consideration to, re-sites within the same locality and extensions in order to enhance the quality of the facility provided for the benefit of the betting public.

Enforcement

It is requested that the policy includes wording along the following lines:

“The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.”

Executive Summary and Purpose of Report - 2.6

Section 162 of the Gambling Act 2005 states that:

“A Licensing Authority may determine an application for a Premises Licence without a hearing if the applicant and any interested party or responsible authority who has made a not withdrawal representation about the application agree”.

We would submit that your policy document should be amended to reflect this.

General Principles – 1.6

Your policy document states that:

“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”.

We would submit that there is no requirement in the Act for the applicant to provide this information and indeed the Act only requires the Licensing Authority to “aim to permit the use of premises for gambling insofar as it thinks it reasonably consistent with the licensing objectives”. We would submit that this paragraph should be removed from the policy.

Your policy document states that:

“When considering any conditions to attach 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”.

We would submit that consideration should be limited to impact on those people who live sufficiently close to the premises to be likely to be affected by the authorised activities or who have business interests that might be affected by the authorised activities, as only these parties constitute interested parties under the Act.

Transitional Arrangements

Schedule 18 of the Act does not provide for the Police to lodge representations to applications under the transitional arrangements. We would submit that reference to this should be omitted from the policy.

Local Standards

Your policy document states that:

“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.”

We would refer you to Section 159(4) of the Gambling Act 2005, which states that:

“An applicant for a premises licence which authorises a track to be used for accepting bets (and which does not also otherwise than by virtue of Section 172 authorise to be used for another purpose) require an operating licence.”

We would submit that your policy document ought to be amended to reflect this.

As indicated above there is no requirement in the Act for an applicant to provide an assessment of how the applicant will promote all the licensing objectives and we would submit that this paragraph should be removed.

Finally, we would respectfully ask that your authority notify the ABB of any further consultations to be conducted by you, and that you favour the ABB with a hard and

electronic copy of your final policy. This will enable the ABB to establish a bank of policies for the benefit of its members, alert its members to any developments and enable greater liaison and consistency to occur. The relevant contact details are:

Hollie Blakeman
ABB
Regency House
1-4 Warwick Street
LONDON W1B 5LT

hollieblakeman@abb.uk.co

Please do not hesitate to contact us should you wish to discuss any of the contents of this letter.

Yours faithfully

GOSSCHALKS

Appendix 3

Hi,

I work as community worker at Morden Baptist Church and have become increasingly aware of the role and magnitude of gambling in Morden Town Centre in particular. I have been on the Merton website and seen that you have put together a draft Gambling Policy and which you are still (just about) in the consultation period of. I am pleased that the policy is being written with the protection of gamblers high on the agenda, and want to encourage your team in putting the main focus of the policy as the people of Merton.

As part of my role I sit on the 'Morden Town Centre Partnership' and we have had discussions there about the amount of gambling/betting establishments in Morden. There doesn't seem to be any ruling on the amount of gambling/betting shops that can be set up, and I am concerned that whilst there is a lot of work being done by the council through the Local Development Framework to improve Morden Town Centre, the amount of these establishments is causing great threat to the area.

The effects of gambling on the individuals involved and their families are staggering. As a church we are in the process of setting up some debt/money advice counselling and support, and I know there are many other groups that exist to support those in financial difficulty. Money, debt and gambling cause huge problems in UK society today, and in our local community too. If we want Morden, and indeed Merton as a borough, to stand out as something unique, a great place to live and work, a safe environment for people of all ages and an area where people are encouraged to live healthy lives, then something needs to be done by the powers that be to take every opportunity to eradicate the temptation for people to throw their hard earned money down the drain. I am not a judgmental, 'thou shalt not gamble' kind of person, but I've seen the devastation that gambling can cause in people's lives. This is a serious issue.

It is our responsibility as local faith groups, community groups and as a local authority to care for the vulnerable. I urge you through this new gambling policy to consider ways of limiting the amount of establishments for gambling and betting in Merton. Have you thought about limiting the amount of gambling/betting establishments allowed to be set up in one particular geographical area, or having a limit on number of establishments per thousand population? I'm not sure exactly how this fits into your licensing department, or whether I'm emailing completely the wrong team, and I would appreciate it if you could forward this to whoever is appropriate.

Kind regards,
Ruth

--

This email has been sent by Ruth Merriman
Community Worker

Morden Baptist Church
Crown Lane, Morden, Surrey, SM4 5BL
020 8540 9380
07929 936 321
ruth@faithinmorden.com

ANALYSIS OF GAMBLING CONSULTATION RESPONSES

Merton Local Safeguarding Children Board (LSCB) & Merton's Community Care Department

The requirements of the LSCB as a Responsible Authority were already catered for in the Draft Policy Statement, other than changing their chosen advisor from *Merton Children Services Authority* to *the London Borough of Merton's Community Care Department*. This amendment was duly made.

Association of British Bookmakers

In their consultation response the Association of British Bookmakers commented on a number of matters under eight (8) specific headings. Their observations were considered and the Draft Policy Statement was amended where appropriate. An analysis of the observations and any changes made follows:

Door Supervisors – This matter is adequately covered by Paragraph 1.6 which states: *“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.”*

Betting Machines – The numbers of permitted machines and limits regarding stakes and maximum jackpots are specifically regulated by the Act.

Re-site Applications – As with all applications the Licensing Authority will consider each application/case on its merit.

Enforcement – Like most other local authority areas, there are only a small number of bookmakers in this borough. In the first instance, Enforcement Officers intend to deal with any alleged breaches or enforcement issues with the Manager of the branch concerned.

Executive Summary and Purpose of the Report – This aspect is already covered in the Delegations in Paragraph 3.2 of the Draft Policy Statement.

General Principles

- (i) This observation was accepted and the relevant sentence was deleted from Paragraph 1.6.
- (ii) Paragraph 1.6 together with the definition of *“Interested Party”* in the *“Glossary of Terms”* adequately covers this observation.

Transitional Arrangements – This observation was valid and Paragraph 1.7 was amended accordingly.

Local Standards – The observation regarding Tracks (including horse racecourses and dog tracks) and the reference to Section 159(4) of the Act was correct. The originally stated restriction on persons who may apply for a Premises Licence was therefore amended accordingly.

Ruth Merriman, Community Worker, Morden Baptist Church

The references to the numbers of gambling/betting establishments in Morden and limiting the numbers of gambling/betting establishments in Merton must be disregarded. The Act and the new regime make it absolutely clear that need is no longer a consideration that Licensing Authorities may take into account. Specific reference to this is made in Paragraph 1.6 of the Draft Policy which states:

“.....Nothing in this Statement of Policy will:-

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.....

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

However, the other remarks regarding debt, gambling and other related problems/issues are of relevance.

One of the three Licensing Objectives is to:

Protect children and other vulnerable persons from being harmed or exploited by gambling.

This important aspect features throughout the Draft Policy Statement and in particular in Section 6.1 of this report and Paragraph 7.2 of the Draft Policy Statement.

**LICENSING AUTHORITY DELEGATIONS PERMITTED UNDER THE GAMBLING
ACT 2005**

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	HEAD OF PLANNING & PUBLIC PROTECTION	HEAD OF CIVIC & LEGAL SERVICES
Three year Licensing Policy	X			
Policy not to Permit Casinos	X			
Validity of Applications or Representations			X	
Representations made by Licensing Authority			X	
Determination of Applications		X	When no hearing is required	
Dispensing with Hearings		Where all parties agree		Where all parties agree prior to hearing
Extending Times Limits		X		Where there is a need prior to hearing (consult with Licensing Committee Chair)
Consideration of Representations (opposing or supporting) and Notices (temporary use / occasional use)		X	X	
Procedure and Conduct of Hearings		X		
Issue of Notice of Hearing				X
Determining Relevance of Information		X		
Determination of Premises Licence Fees		X		

London Borough Of Merton

DRAFT
Statement of
Gambling Policy

INDEX

1 Statement of Licensing Policy

- 1.1 Introduction
- 1.2 The London Borough Of Merton
- 1.3 Glossary of Terms
- 1.4 Licensing Objectives
- 1.5 Licensable Premises
- 1.6 General Principles
- 1.7 Transitional Arrangements
- 1.8 Consultees
- 1.9 Information Exchange

2 Legislation, Policies and Strategies

- 2.1 Legislation
- 2.2 Relationship with Planning Policies
- 2.3 National Strategies
- 2.4 Local Strategies and Policies
- 2.5 Integrating Strategies

3 Decision Making

- 3.1 Terms of Reference
- 3.2 Allocation of Decision Making Responsibilities
- 3.3 Licensing Reviews

4 Local Standards

- 4.1 Applications
- 4.2 Assessment of Need
- 4.3 Conditions
- 4.4 Enforcement
- 4.5 Casinos
- 4.6 Bingo
- 4.7 Betting Offices
- 4.8 Family Entertainment Centres (Licensed)
- 4.9 Family Entertainment Centres (Un-licensed)

5 Prevention of Crime and Disorder Objective

6 Ensuring that Gambling is Conducted in a Fair and Open Way Objective

7 Protection of Children and Other Vulnerable Persons Objective

- 7.1 Access to Licensed Premises
- 7.2 Vulnerable Persons

8 Complaints against Licensed Premises

- Appendix A Table of Delegations**
- Appendix B Categories of Gaming Machines**
- Appendix C Enforcement Concordat**

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 Licensing Authority to prepare and publish a “Statement of Licensing Policy” that sets out the policies that the Licensing Authority 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 metropolitan boroughs located in South West 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
Licensing Authority:	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 of the environment or harm to human health)
6. **Merton Local Safeguarding Children Board (LSCB) & LBM's Community Care Department.**
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 Licensing Authority 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.

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 Licensing Authority will primarily focus on the impact of the authorised activities taking place at licensed premises on interested parties.

Interested Parties

Factors the Licensing Authority may take into account to determine whether or not an interested party is within the proximity of the premises are as follows:

1. the nature of the activities
2. the size of the premises
3. the proposed hours of operation of the premises
4. the distance of the premises (eg town centre, residential, rural) from the location of the interested party making the representation.

This list is not exhaustive and the Licensing Authority may take into account any other factors that they consider to be relevant in deciding whether or not someone is an interested party.

In all cases, each application shall be determined on its individual merits.

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

The Licensing Authority 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 behavior;
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 or more of the Licensing Objectives, as specified in section 1.4 above, before the Licensing Authority will be able to consider it. An application for a review of a licence must be made on the prescribed form.

The Licensing Authority, 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.

1.8 Consultees

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

- The Borough Commander of the Metropolitan Police at Wimbledon Police Station;
- Persons who appear to the Authority to represent the interests of those 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
- 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; e.g. representatives of residents associations currently notified to the Licensing Authority, Wimbledon Civic Forum, Local Trade Associations etc

- 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 Licensing Authority 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 Licensing Authority 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 Licensing Authority 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 Behavior 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 Licensing Authority 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 Licensing Authority will aim, as far as possible, to co-ordinate them.

The Licensing Authority 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 Licensing Authority will fulfill 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 Licensing Authority 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 Licensing Authority 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 Licensing Authority 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 Licensing Authority aims to promote a high quality thriving night-time economy.
- ❖ The Licensing Authority 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 Licensing Authority 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 Licensing Authority 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.

A clear statement of the reasons for the decision shall accompany every determination of a licensing decision by the Licensing Sub-Committee. 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 Licensing Authority'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 Licensing Authority.

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 Licensing Authority 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 Licensing Authority'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 the Head of Planning & Public Protection.

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 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 Licensing Authority 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, or, in the case of an application for a track betting licence the applicant may not be required to have an operators licence.

The applicant may ask the Licensing Authority for advice as to the scope of information to be provided. The Licensing Authority 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 Licensing Authority 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. There is no legal obligation to demonstrate that any demand exists.

4.3 Conditions

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Licensing Authority will draw upon the advice issued by the Gambling Commission and attach conditions relative and proportionate 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 Licensing Authority intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises be 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 Licensing Authority 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 fulfill 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 principle used to designate the following bodies to advise the Authority on the protection of children and vulnerable persons from harm is that they are the acknowledged experts in this specialised field within this Authority.

The Licensing Authority 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 Licensing Authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will follow the Gambling Commission's assumption that for regulatory purposes, "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, the Licensing Authority will consult with Community Care Services via a joint arrangement with the Merton Local Safeguarding Children Board.

8 COMPLAINTS AGAINST LICENSED PREMISES

The Licensing Authority 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 Licensing Authority 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

DELEGATION OF LICENSING FUNCTIONS

APPENDIX A

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	HEAD OF PLANNING & PUBLIC PROTECTION	HEAD OF CIVIC & LEGAL SERVICES
Three year Licensing Policy	X			
Policy not to Permit Casinos	X			
Validity of Applications or Representations			X	
Representations made by Licensing Authority			X	
Determination of Applications		X	When no hearing is required	
Dispensing with Hearings		Where all parties agree		Where all parties agree prior to hearing
Extending Times Limits		X		Where there is a need prior to hearing (consult with Licensing Committee Chair)
Consideration of Representations (opposing or supporting) and Notices (temporary use / occasional use)		X	X	
Procedure and Conduct of Hearings		X		
Issue of Notice of Hearing				X
Determining Relevance of Information		X		
Determination of Premises Licence Fees		X		

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 Association of British Bookmakers submitted the first stage of a 2-year independent review to the DCMS in December 2005.

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. Additional statements of enforcement policy may supplement it.

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 organizations, 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 organizations 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 (LACORS) 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).