

Committee: LICENSING COMMITTEE

Date: 10 November 2009

Agenda item: 4

Wards: All

Subject: Gambling Policy Review

Lead officer: Ian Murrell, Consumer and Business Protection Manager

Lead member: Cllr David Simpson, Cabinet Member for Environment and Leisure Services

Forward Plan reference number: 858

Contact officer: Alan Powell, Principal Licensing Officer

Recommendations:

- A. The committee approve the recommended amendments to the Gambling Policy and that it be placed before Full Council for adoption on 25 November 2009
 - B. The committee agree the renewal of the policy that no casinos be permitted in the London Borough of Merton and that it be placed before Full Council for adoption on 25 November 2009
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. There is a statutory requirement under the Gambling Act 2005 that the council review its statement of gambling policy every 3 years

2 DETAILS

- 2.1. The first Gambling Policy was adopted by the council on 31 January 2007 thus it expires on 31 January 2010
- 2.2. A full 3 month public consultation of the policy specifically asking for alternative or additional proposals was undertaken between 1 July and 31 September 2009
- 2.3. There were 3 responses to the consultation –1 from Merton’s LSCB, 1 from a Residents Association and 1 from Cllr Andrew Judge
- 2.4. A summary of the responses and the Principal Licensing Officer’s recommendations are as follows, all are attached as Appendix 1:
 - Lauriston Road and Wilberforce Road Residents Association responded by fully supporting the existing policy.
 - Merton Council’s Local Safeguarding Children’s Board requested their title be amended.
 - *Rewording of their title has been undertaken*

- Cllr Andrew Judge asked that the policy include a requirement for a specific number of staff to be employed in any gambling premises

It is not considered appropriate to place an arbitrary staffing level in the policy as such matters can be addressed if a representation is made on the grounds of crime and disorder

2.5 When the Gambling policy was adopted 3 years ago, members also adopted a resolution under S166 of the Act not to issue casino licences within Merton or to allow operators to make applications for premises licences for casinos.

2.6 It is recommended that this resolution be renewed and is reflected in para 4.5 of the policy.

3 ALTERNATIVE OPTIONS

3.1. It is a statutory requirement to review this policy every 3 years and failure to do so will render the Council in breach of its statutory duty and any decisions made by a licensing sub-committee without a properly adopted policy would be unlawful.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. A full 3 month consultation of the existing policy was undertaken between 1 July and 31 September 2009

5 TIMETABLE

5.1.	1 July – 30 September 2009 – Public consultation	
	10 November 2009	- Licensing Committee
	25 November 2009	- Full Council
	1 December 2009	- Proposed publication date
	4 January 2009	- Statutory requirement to publish policy 4 weeks before it comes into effect
	31 January 2010	- Deadline for adoption of Policy for a further 3 years

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. The Proposed Policy can be met within the budget allocation for 2009/10 and subsequent years. The Services income streams being in relation to the consideration of applications for licences.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The Policy has been reviewed and approved by the Interim Head of Legal Services. If the Policy is not adopted within the specified timescale, any decision made by a licensing sub-committee would be unlawful.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. These are statutory functions and are applied globally. An equalities impact assessment of the attached policy and other related functions of the Service are undertaken on a regular basis.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. The Service has a statutory duty to contribute to the reduction of crime and disorder in Merton under section 17 of the Crime and Disorder Act 1988. Furthermore the prevention of crime and disorder is also one of the objectives of the Council's statement of Gambling policy. In determining applications it will be the policy of the Service to consider the adequacy of measures proposed to deal with related crime and where appropriate it will attach conditions to permissions and licences to deter and prevent crime and disorder both inside and within the vicinity of the premises.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. All risk and health and safety implications have been considered in arriving at the final package of Service Plan measures. Risk ratings are determined for specific activities, including the delivery of outcomes, measures and targets in the Plan, and are included within the Councils corporate risk management strategy. Identified risks and actions to minimise them are assessed on an annual basis.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- **Appendix 1** - Replies to the public consultation
- **Appendix 2** - Amended Gambling Policy for approval

12 BACKGROUND PAPERS

- 12.1. The following documents have been relied upon in compiling this report and the policy but do not form part of this report
- The Gambling Act 2005 (As amended)
 - The Gambling Commissions Guidance to Licensing Authorities 3rd Edition (May 2009)

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From: Councillor Andrew Judge
Sent: 01 July 2009 13:56
To: Licensing
Subject: RE: Merton Gambling Policy Review

I was concerned in handling an application last year to sub-divide a game machine establishment to get round the rules and install more machines, to discover that one establishment in Morden had been subject to a robbery and that the view of the Police was that staffing levels in these establishments were too low, making the staff working there vulnerable to attack. I should be grateful if account could be taken of this factor in reviewing the policy.

Will existing licences be subject to review on with regard to this concern?

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

From: Licensing
Sent: 01 July 2009 13:11
To: Councillor Agatha Akyigyina; Councillor Andrew Judge; Councillor Angela Caldara; Councillor Barbara Mansfield; Councillor Brian Lewis-Lavender; Councillor Chris Edge; Councillor Corinna Edge; Councillor David Chung; Councillor David Dean; Councillor David Simpson; Councillor David Williams; Councillor Deborah Shears; Councillor Denise March; Councillor Dennis Pearce; Councillor Edith Macauley; Councillor George Reynolds; Councillor Geraldine Stanford; Councillor Gilli Lewis-Lavender; Councillor Gregory Udeh; Councillor Henry Nelless; Councillor Ian Munn; Councillor Jeremy Bruce; Councillor John Bowcott; Councillor John Dehaney; Councillor Jonathan Warne; Councillor Judy Saunders; Councillor Karin Forbes; Councillor Krysia Williams; Councillor Krystal Miller; Councillor Leighton Veale; Councillor Linda Kirby; Councillor Linda Scott; Councillor Marc Hanson; Councillor Margaret Brierly; Councillor Mark Allison; Councillor Mark Betteridge; Councillor Martin Whelton; Councillor Maurice Groves; Councillor Maxi Martin; Councillor Nick Draper; Councillor Oonagh Moulton; Councillor Patricia Lewis; Councillor Peter McCabe; Councillor Peter Southgate; Councillor Philip Jones; Councillor Richard Chellew; Councillor Richard Williams; Councillor Rod Scott; Councillor Ronald Wilson; Councillor Russell Makin; Councillor Samantha George; Councillor Sheila Knight; Councillor Simon Withey; Councillor Stephen Alambritis; Councillor Stephen Kerin; Councillor Steve Austin; Councillor Tariq Ahmad; Councillor William Brierly; Councillor Zenia Squires-Jamison; Alfreton Close Residents Association (E-mail); Apostles Residents Association (E-mail); Belvedere Residents Association (E-mail); Caroline Maddick-Pengelly; Clinton Glanville; CWARA (E-mail); Darren Giddings; Dawn Eggleton; Four Acres and Edinburgh Court Residents Association (E-mail); Gareth Bradley; Gillian Blake; Glebe Court Residents Association (E-mail); Graham, Hartfield & Herbert Residents Association; Hartfield and Herbert Residents Assoc) GHHR (Graham (E-mail); Jeff New (Met Police); John Rothwell (E-mail); Lauriston Road + Wilberforce Way R. A (E-mail); Longthornton & Tamworth Res Ass (E-mail); M Sankey; Manmohan Dayal; Merton Tenants & Residents Federation (E-mail); NEW BERA; NW Wimbledon Residents Association (E-mail); Pam Press; Raymond & Mansel Rd Res Ass (E-mail); Rodney Place Residents Association (E-mail); Sally Parrack (E-mail); South Common RA (E-mail); South Mitcham Residents Association (E-mail); South Park R A (E-mail); Sue Roberts; Wimbledon Common West R.A. Chairman; Wimbledon Hillside Residents Association (E-mail); Wimbledon House Residents Association (E-mail); Wimbledon Union of Res Assns (WURA) (E-mail); Anne Ward; Howard Baines; Ian Murrell; Jonathan Lewis; Kim Harlow; Lynn Ridge; Marc Dubet; Melanie Surty (nee Little); Mike Barrett; Peter Sparham; Steve Nottage; Zen Ridge

Subject: Merton Gambling Policy Review

Merton Council is undertaking a review of its adopted Gambling Policy **from 1 July 2009**. A review must be undertaken every three years. The current policy was adopted in December 2006 and there will be a three month public consultation on that existing policy, **finishing on 30 September 2009**.

The 3 Licensing Objectives of the Gambling Act 2005 are:

- To prevent gambling being a source of crime & disorder
- To ensure that gambling is conducted in a fair and open way
- To protect children and other vulnerable persons from being harmed or exploited by

gambling

Please note that the Gambling Act does not include 'public safety' or 'the prevention of public nuisance'. The council will therefore only have regard to matters that relate to one or more of the three licensing objectives above in the review of its existing policy.

Your submission may be sent by post in the normal manner or electronically to licensing@merton.gov.uk. Please ensure that your name and full postal address are included in all communications.

Please find attached Merton's Existing Gambling Policy.

<< File: Statement of Gambling Policy.pdf >>

Kind regards,

Merton Council Licensing Section

14th Floor
Merton Civic Centre
London Road
Morden
SM4 5DX

licensing@merton.gov.uk
020 8545 3969

From: JOHNDROTHWELL@aol.com
Sent: 06 July 2009 09:48
To: Licensing
Subject: Re: Merton Gambling Policy Review
Dear Sir

I have consulted the Committee of the Lauriston Road and Wilberforce Way Residents Association on this matter. There are no changes which we wish to propose to the existing policy at this time. However, if the Council propose to make any changes we would hope to be given an opportunity to consider them before they are adopted.

John Rothwell
Chairman, Lauriston Road and Wilberforce Way Residents' Association
Flat 2, 4 Lauriston Road
London SW19 4TQ
020 8946 0596

From: Howard Baines
Sent: 10 July 2009 10:08
To: Licensing
Cc: Julie Phillips
Subject: RE: Merton Gambling Policy Review
To Merton Council Licensing Section

Julie Phillips (Safeguarding Adults Manager) and I send this joint response as part of the consultation. The only amendment requested is that "Community Care Services" is changed to "Safeguarding Adults Service" on page 5 (once) and page 17 (twice). Please would this change be noted in any other information (e.g. Council webpages).

Merton LSCB and the Safeguarding Adults Service have no further comments and will continue to liaise regarding applications received.

Regards,

Howard Baines
LSCB Development Officer
Safeguards Team
Children, Schools & Families Department
London Borough of Merton
020 8545 3801
howard.baines@merton.gov.uk **DONE 10 July 2009 AP**

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To: Councillor Agatha Akyigyina; Councillor Andrew Judge; Councillor Angela Caldara; Councillor Barbara Mansfield; Councillor Brian Lewis-Lavender; Councillor Chris Edge; Councillor Corinna Edge; Councillor David Chung; Councillor David Dean; Councillor David Simpson; Councillor David Williams; Councillor Deborah Shears; Councillor Denise March; Councillor Dennis Pearce; Councillor Edith Macauley; Councillor George Reynolds; Councillor Geraldine Stanford; Councillor Gilli Lewis-Lavender; Councillor Gregory Udeh; Councillor Henry Nelless; Councillor Ian Munn; Councillor Jeremy Bruce; Councillor John Bowcott; Councillor John Dehaney; Councillor Jonathan Warne; Councillor Judy Saunders; Councillor Karin Forbes; Councillor Krysia Williams; Councillor Krystal Miller; Councillor Leighton Veale; Councillor Linda Kirby; Councillor Linda Scott; Councillor Marc Hanson; Councillor Margaret Brierly; Councillor Mark Allison; Councillor Mark Betteridge; Councillor Martin Whelton; Councillor Maurice Groves; Councillor Maxi Martin; Councillor Nick Draper; Councillor Oonagh Moulton; Councillor Patricia Lewis; Councillor Peter McCabe; Councillor Peter Southgate; Councillor Philip Jones; Councillor Richard Chellew; Councillor Richard Williams; Councillor Rod Scott; Councillor Ronald Wilson; Councillor Russell Makin; Councillor Samantha George; Councillor Sheila Knight; Councillor Simon Withey; Councillor Stephen Alambritis; Councillor Stephen Kerin; Councillor Steve Austin; Councillor Tariq Ahmad; Councillor William Brierly; Councillor Zenia Squires-Jamison; Alfreton Close Residents Association (E-mail); Apostles Residents Association (E-mail); Belvedere Residents Association (E-mail); Caroline Maddick-Pengelly; Clinton Glanville; CWARA (E-mail); Darren Giddings; Dawn Eggleton; Four Acres and Edinburgh Court Residents Association (E-mail); Gareth Bradley; Gillian Blake; Glebe Court Residents Association (E-mail); Graham, Hartfield & Herbert Residents Association; Hartfield and Herbert Residents Assoc GHHRA (Graham (E-mail)); Jeff New (Met Police); John Rothwell (E-mail); Lauriston Road + Wilberforce Way R. A (E-mail); Longthornton & Tamworth Res Ass (E-mail); M Sankey; Manmohan Dayal; Merton Tenants & Residents Federation (E-mail); NEW BERA; NW Wimbledon Residents Association (E-mail); Pam Press; Raymond & Mansel Rd Res Ass (E-mail); Rodney Place Residents Association (E-mail); Sally Parrack (E-mail); South Common RA (E-mail); South Mitcham Residents Association (E-mail); South Park R A (E-mail); Sue Roberts; Wimbledon Common West R.A. Chairman; Wimbledon Hillside Residents Association (E-mail); Wimbledon House Residents Association (E-mail); Wimbledon Union of Res Assns (WURA) (E-mail); Anne Ward; Howard Baines; Ian Murrell; Jonathan Lewis; Kim Harlow; Lynn Ridge; Marc Dubet; Melanie Surty (nee Little); Mike Barrett;

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- To ensure that gambling is conducted in a fair and open way
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Please note that the Gambling Act does not include 'public safety' or 'the prevention of public nuisance'. The council will therefore only have regard to matters that relate to one or more of the three licensing objectives above in the review of its existing policy.

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Kind regards,

Merton Council Licensing Section

14th Floor
Merton Civic Centre
London Road
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SM4 5DX

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020 8545 3969

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London Borough of Merton

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 and is 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 “Statement of Licensing Policy” has been adopted having regard to the provisions of the revised Guidance issued by the Gambling Commission, responses from consultees and the licensing objectives of the Gambling Act 2005.

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

This policy came into effect on 31st January 2010 and has been reviewed in accordance with statute. The Policy will be reviewed as necessary, and at least every three years from the date of its adoption.

A consultation on this policy took place between 1 July 2009 and 30 September 2009 and followed HM Government Code of Practice on Consultation (published July 2008).

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 200,000. 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 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 (as amended)
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

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

Responsible Authority:

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 Safeguarding Adults Service.**
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 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 and 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, 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 will 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 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 or more of the Licensing Objectives, listed at the beginning of this Policy, 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

There remains a transitional arrangements period in the Act, relating to the issue of licences and permits and this will continue to be on the basis of existing permissions being continued.

1.8 Consultees

The Statement of Licensing Policy has been 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 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 Licensing Authority will consider applications with reference to other adopted local strategies and policies.

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 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 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 nighttime 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.

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/or 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 website as soon as possible after the decision has been confirmed.

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 Environment & Regeneration.

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 and Applications

Regulations have been 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 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 criteria 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 only 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 24 November 2009 Merton re-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 8 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 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 & Safeguarding Adults Service.

9 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
Civic Centre
London Road
Morden
SM4 5DX

Tel: 020 8545 3992
E-mail: licensing@merton.gov.uk

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

website: www.gamblingcommission.gov.uk

Tel: 020 7306 6219

DELEGATION OF LICENSING FUNCTIONS

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	£1	£35
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.

However a report on 6 July 2009 from the Gambling Commission has recommended that no immediate action be taken. It suggests that further research into regulatory measures need to be part of a wider prevention and harm mitigation framework which addresses risk mitigation in the context of machine and other gambling more generally. The Government continues to keep the matter under review.

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 coordinated 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 Coordinating 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).

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