

## Licensing Committee

Tuesday 28 September 2010  
7.00 pm  
Town Hall, Peckham Road, London SE5 8UB

### Membership

Councillor Lorraine Lauder MBE (Chair)  
Councillor Catherine Bowman (Vice-Chair)  
Councillor Sunil Chopra  
Councillor Robin Crookshank Hilton  
Councillor Dan Garfield  
Councillor Norma Gibbes  
Councillor Jeff Hook  
Councillor David Hubber

Councillor Eliza Mann  
Councillor Darren Merrill  
Councillor Michael Mitchell  
Councillor Wilma Nelson  
Councillor the Right Revd Emmanuel Oyewole  
Councillor Althea Smith  
Councillor Ian Wingfield

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Webpage: <http://www.southwark.gov.uk>

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Members of the committee are summoned to attend this meeting

**Annie Shepperd**

Chief Executive

Date: 20 September 2010



# Licensing Committee

Tuesday 28 September 2010  
7.00 pm  
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## Order of Business

Item No.	Title	Page No.
	<b>PART A - OPEN BUSINESS</b>	
<b>1.</b>	<b>APOLOGIES</b>	
	To receive any apologies for absence.	
<b>2.</b>	<b>CONFIRMATION OF VOTING MEMBERS</b>	
	A representative of each political group will confirm the voting members of the committee.	
<b>3.</b>	<b>NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT</b>	
	In special circumstances, an item of business may be added to an agenda within five clear days of the meeting.	
<b>4.</b>	<b>DISCLOSURE OF INTERESTS AND DISPENSATIONS</b>	
	Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.	
<b>5.</b>	<b>MINUTES FROM THE LICENSING COMMITTEE</b>	1 - 3
	To approve as a correct record the Minutes of the open section of the meeting held on 27 July 2010.	
<b>6.</b>	<b>MINUTES FROM THE LICENSING SUB-COMMITTEES</b>	4 - 20
	To agree as a correct record the Minutes of the open sections of the meetings held on 21 July 2010, 26 July 2010, 4 August 2010, 23 August 2010, and 1 September 2010	

<b>Item No.</b>	<b>Title</b>	<b>Page No.</b>
7.	<b>DESIGNATION OF BANKSIDE REPORT - UPDATE</b>	21 - 26
8.	<b>ADOPTION OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009 - LICENSING OF SEXUAL ENTERTAINMENT VENUES</b>	27 - 34
9.	<b>SOUTHWARK'S STATEMENT OF GAMBLING POLICY</b>	35 - 104

**ANY OTHER OPEN BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.**

**EXCLUSION OF PRESS AND PUBLIC**

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”

**PART B - CLOSED BUSINESS**

**ANY OTHER CLOSED BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.**

Date: 20 September 2010



## Licensing Committee

MINUTES of the OPEN section of the Licensing Committee held on Tuesday 27 July 2010 at 7.00 pm at Town Hall, Peckham Road, London SE5 8UB

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**PRESENT:** Councillor Lorraine Lauder MBE (Chair)  
Councillor Catherine Bowman  
Councillor Norma Gibbes  
Councillor Jeff Hook  
Councillor David Hubber  
Councillor Eliza Mann  
Councillor Darren Merrill  
Councillor Michael Mitchell  
Councillor Wilma Nelson  
Councillor the Right Revd Emmanuel Oyewole

**OTHER MEMBERS PRESENT:** Councillor David Noakes (Ward councillor, Cathedrals)

**OFFICER SUPPORT:** Des Waters, Head of Public Realm  
Richard Parkins, Head of Licensing  
Ian Millichap, Constitutional Manager  
Sean Usher, Constitutional Officer

### 1. APOLOGIES

Apologies were received from Councillor Althea Smith who was attending the Planning Committee, Councillor Ian Wingfield, Councillor Robin Crookshank Hilton and Councillor Sunil Chopra. Apologies for lateness were received from Councillor Wilma Nelson.

### 2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

Councillor Catherine Bowman declared a personal and non-prejudicial interest on Item 8,

Designation of Bankside Report, because when the original consultation took place in 2008 she was not a councillor and she represented the Bankside Forum completing the consultation on their behalf.

## **5. MINUTES FROM THE LICENSING COMMITTEE**

### **RESOLVED:**

That the amended minutes of the meeting held on 9 March 2010 be agreed as a correct record and signed by the chair.

## **6. MINUTES FROM THE LICENSING SUB-COMMITTEES**

### **RESOLVED:**

That the minutes of the meetings held on 1 March 2010, 17 March 2010, 26 April 2010, 2 June 2010, 7 June 2010, 11 June 2010, 28 June 2010, 7 July 2010 (amended) and 12 July 2010 be agreed as a correct record and signed by the chair.

## **7. UPDATE ON SATURATION POLICY**

The licensing officer informed the committee on the saturation policy in place in Southwark and its impact on decision making at licensing sub-committees. Members had questions and it was also asked that saturation policy be covered in the next round of licensing training for members.

## **8. THE DESIGNATION OF BANKSIDE REPORT**

### **RESOLVED:**

1. That the committee agreed to prohibit itinerant ice cream trading in the streets of the riverside area from Southwark's western boarder to St Saviour's Dock in the East, and bordered in the South by Southwark Street & St Thomas Street as set out in Map 1 Appendix A.
2. That the committee agreed to designate Areas 4 and 7 of the above area for the purposes of street trading as set out in Map 2, Appendix B.
3. That the committee agreed to designate the Area 5 in Map 2, Appendix B as an area for licensed busking.

## **9. LICENSING SUB-COMMITTEE - VENUES**

The committee discussed the venues for licensing sub-committees and the most appropriate venue for meetings. Statistics were circulated that indicated that the majority of meetings were held in the Town Hall and Tooley Street is normally only used when applications are in the vicinity, in wards such as Riverside, Cathedrals, Grange and Chaucer.

**RESOLVED:**

That the committee agreed that sub-committees are to be held in either the Town Hall or Tooley Street depending on the location of the application and availability of rooms in either venue.

The meeting closed at 8.15pm.

**CHAIR:**

**DATED:**



## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 21 July 2010 at 10.00 am at Room G02c - 160 Tooley Street, Ground Floor

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**PRESENT:** Councillor Lorraine Lauder MBE  
Councillor David Hubber  
Councillor Althea Smith

**OTHERS PRESENT:** Mr Waqas Amin Choudhary, applicant (Westway)  
Mr Anthony Hickman, representative (Westway)  
Councillor Eliza Mann, ward councillor (Riverside Ward)  
Mrs Joan Clements, local resident  
Mr Bijan Dutta, local resident  
Mr Lee Heppell, local resident  
Mr Mohamad, manager, Londis  
Mr Stuart Gibson, representative (Londis)

**OFFICER SUPPORT:** Dave Franklin, licensing department  
Kay Riley, licensing department  
Felix Rechtman, legal department  
Sean Usher, constitutional team

### 1. APOLOGIES

There were no apologies.

### 2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as voting members.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The licensing officer notified the sub-committee that a letter had been received from Simon Hughes MP regarding Item 5, the letter was an objection to the application but the letter had been received after the statutory deadline and the sub-committee did not accept it.

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

## 5. LICENSING ACT 2003 - WESTWAY, 149/151 JAMAICA ROAD, LONDON SE16 4SH

The licensing officer presented his report and informed the sub-committee that the letter sent by 94 local residents had been drafted and circulated by a nearby business, City Wines, Jamaica Road. Members had no questions for the officer.

The applicant's representative addressed the sub-committee, he reminded the sub-committee that the police had conciliated their objection after the applicant had agreed to a number of additional conditions. Members had questions for the applicant.

The local residents and their ward councillor, Councillor Eliza Mann, addressed the sub-committee and raised their concerns regarding crime and disorder and the fact there were already 4 similar stores in the area. The members had questions for the local residents and the ward councillor.

All parties were given 5 minutes to sum up in reverse order then the sub-committee went into closed session at 10.32am.

The meeting resumed at 10.45am and the decision was announced as set out in the resolution below.

Having read the decision, the chair informed all parties present that a review of the premises could be applied for at a later stage if it was considered necessary.

### RESOLVED:

That the application by Waqas Amin Choudhary for grant of a premises licence issued under the Licensing Act 2003 in respect of Westway, 149-151 Jamaica Road, London, SE16 4SH is granted as per the application.

Licensable Activity	Monday to Sunday
(m) Supply of alcohol	07:00 – 23:00
(o) Opening Hours of premises	00:00 – 00:00

### Conditions

The operation of the premises under the licence shall be subject to compliance with the operation schedule highlighted in Section Q of the application form and the following conditions:-

All mandatory conditions set out in the Licensing Act 2003 relating to

1. Authorisation of the retail sale of alcohol;

### Reasons

The reasons for this decision are as follows:



The licensing sub-committee heard evidence from the applicant and the interested parties. In reaching its decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

The sub-committee did not consider that the granting of this application would have an adverse impact on the licensing objectives.

### **Appeal Rights**

The applicant or the objectors may appeal against any decision to modify the conditions of the licence.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

## **6. LICENSING ACT 2003 - LONDIS, 93 LORDSHIP LANE, LONDON, SE22 8HU**

The licensing officer presented his report and informed the sub-committee that neither the local resident or the ward councillor were attending. The police had met with the applicant and conciliated.

The applicant's representative addressed the sub-committee, he reminded the sub-committee that the police had conciliated their objection after the applicant had agreed to a number of additional conditions. Members had questions for the applicant.

The applicant was given 5 minutes to sum up then the sub-committee went into closed session at 11.16am.

The meeting resumed at 11.23am and the decision was announced as follows.

### **RESOLVED**

That the application by Seven Eleven Foods Limited for variation of the Premises Licence issued under the Licensing Act 2003 in respect of Londis, 93-95 Lordship Lane, London SE22 8HU is granted as follows.

	<b>Monday to Sunday</b>
<b>Sale of Alcohol</b>	24 hours

### **Conditions**

All appropriate mandatory conditions as defined by the Licensing Act 2003 (as amended); and

- An approved CCTV be installed both inside and out with a 31 day tape bank, which must be maintained in full working order and a member of staff must be readily available to download images at the request of Police or London Borough of Southwark Licensing Officers.
- A proof of age scheme to be established.
- Recognised training scheme for all staff supplying intoxicating liquor.
- That the applicant provide individual staff training books to all staff who will be expected to complete the training course, Refresher training questions are provided on a six monthly basis, and are kept with the training books to denote the refresher training has taken place. These training books will obviously be available for inspection by yourselves, or the council licensing officer on request.

### **Reasons**

The reasons for this decision are as follows:

The licensing sub-committee heard evidence from the applicant and in reaching its decision the sub-committee had regard to all the relevant considerations and the four licensing objectives.

Having considered the evidence presented, the sub-committee was not satisfied the granting of this application would have an adverse impact on the licensing objectives and therefore the application was granted.

### **Appeal rights**

The applicant or interested parties may appeal against any decision.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting closed at 11.35am.

**CHAIR:**

**DATED:**

## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Monday 26 July 2010 at 10.00 am at Town Hall, Peckham Road, London SE5 8UB

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**PRESENT:** Councillor Lorraine Lauder MBE  
Councillor Michael Mitchell  
Councillor Wilma Nelson

**OTHERS PRESENT:** Adam Saword, applicant  
Luke Jenkins, supporting the applicant  
Katherine Verkruysse, supporting the applicant  
Robert Charles Jackson, supporting the applicant  
Councillor Ian Wingfield, ward councillor  
Rosemary Minto, local resident  
John Hall, local resident  
Julia Roskill, local resident  
Nichola Roskill, local resident  
Alex Blacknell, local resident  
Fiona Subotsky, local resident

**OFFICER SUPPORT:** Dorcas Mills, licensing officer  
Felix Rechtman, legal services  
Virginia Wynn-Jones, constitutional team

### 1. APOLOGIES

There were no apologies.

### 2. CONFIRMATION OF VOTING MEMBERS

The members present were confirmed as the voting members.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

### 5. LICENSING ACT 2003 - THE GRAND UNION PUBLIC HOUSE, 26 CAMBERWELL GROVE, LONDON SE5 8RE

The licensing officer presented her case. Members had questions for the licensing officer.

The applicant addressed the sub-committee. Members had questions for the applicant.

The local resident objectors addressed the sub-committee. Members had questions for the local residents.

Each party was given 5 minutes to sum up.

The sub-committee went into closed session at 11.20am. The meeting resumed at 11.50am and the decision was announced.

#### **RESOLVED:**

That the application by Adam Sarword for a variation of the Premises Licence issued under the Licensing Act 2003 in respect of Grand Union, 26 Camberwell Grove, London SE5 8RE is granted in part as follows:

<b>Licensable Activity</b>	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thurs</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>New Activities</b>							
Films	10.00 23.00	10.00 23.00	10.00 23.00	10.00 23.00	10.00 00.00	10.00 00.00	10.00 23.00
Performance of Dance	10.00 23.00	10.00 23.00	10.00 23.00	10.00 23.00	10.00 00.00	10.00 00.00	10.00 23.00
Provision of facilities for making music	10.00 23.00	10.00 23.00	10.00 23.00	10.00 23.00	10.00 00.00	10.00 00.00	10.00 23.00
Provision of facilities for dancing	10.00 23.00	10.00 23.00	10.00 23.00	10.00 23.00	10.00 00.00	10.00 00.00	10.00 23.00
<b>Reduced Activities</b>							
Live Music					10.00 23.00	10.00 23.00	

#### **Reasons**

The reasons for the decision are, as follows:

Having heard the representations from the applicant, interested parties and the ward councillor, the application to extend the opening hours is refused, as the sub-committee is not satisfied that the granting of the application will have no adverse cumulative impact in the saturation zone, and further consider that the granting of this application will have adverse impact on the prevention of nuisance objective in the Licensing Act.

The application to add further activities such as film, dance and making music is approved with such activities limited to existing opening hours. The application to reduce live music hours is granted as well.

### **Appeal Rights**

The applicant or any interested parties may appeal against the decision.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting closed at 11.55am.

**CHAIR:**

**DATED:**



## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 4 August 2010 at 10.00 am at Town Hall, Peckham Road, London SE5 8UB

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**PRESENT:** Councillor Lorraine Lauder MBE (Chair)  
Councillor Ian Wingfield  
Councillor Jeff Hook

**OTHERS PRESENT:** Mr A. Evans, Thames Festival Trust  
Mr J. Bartlett, Thames Festival Trust  
Ms K. Wilding, Thames Festival Trust  
Ms Edith Slee, local resident  
Ms Brenda Bell, local resident  
Councillor Geoffrey Thornton, ward councillor

**OFFICER SUPPORT:** Dave Franklin, licensing officer  
Kay Riley, licensing officer  
Kate Heap, licensing officer  
Sean Usher, constitutional team

### 1. APOLOGIES

There were none.

### 2. CONFIRMATION OF VOTING MEMBERS

The three members present were confirmed as the voting members.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

### 5. LICENSING ACT 2003 - QUEENS WALK AT BANKSIDE AND TATE MODERN, LONDON SE1

The licensing officer presented her report and informed the sub-committee that although

the application form indicated that this was a blanket application, only the sale of alcohol item remained and that was the only item being considered at the sub-committee. Members had questions for the licensing officer.

The applicants then presented to the sub-committee. Members had questions for the applicants.

The local residents then presented their objections to the application. The local residents were then informed that the items they were objecting to had been removed from the application, as stated by the licensing officer and that only alcohol sales remained. The local residents stated they did not object to the sale of alcohol on this application. Members had questions for the local residents.

All parties were given five minutes to sum up.

At 10.45am the sub-committee went into closed session. At 11.05am the sub-committee resumed and the chair read out the following decision.

**RESOLVED:**

That the application by The Thames Festival Trust for grant of a time limited premises licence issued under the Licensing Act 2003 in respect of Thames Festival, Queens Walk at Bankside and Tate Modern, London, SE1 is granted as follows:

The licence is for Saturday 11 September and Sunday 12 September 2010 only in respect of the shaded rectangular area outlined in yellow on the A3 area plan that was considered at the hearing.

<b>Licensable Activity</b>	<b>Saturday 11 September 2010</b>	<b>Sunday 12 September 2010</b>
(m) Supply of alcohol (on and off sales)	12.00-22.00	12.00-22.00
(o) Opening Hours of premises	12.00-22.00	12.00-22.00

**Conditions**

The operation of the premises under the licence shall be subject to compliance with the operation schedule highlighted in Section Q of the application form and the following conditions:-

- a) All mandatory conditions set out in the Licensing Act 2003 relating to  
Authorisation of the retail sale of alcohol.

**Reasons**

The reasons for this decision are as follows:

The Licensing Sub Committee heard evidence from the applicant and the local residents and considered an A3 area plan of the vicinity of the licensed area.

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee noted that the two residents present did not object to the sale of alcohol as proposed by the applicant. The licensing sub-committee further noted the residents' concern that there had been no public notices confirming the applicant did not intend to pursue any licensable activities listed in the application other than the sale of alcohol.

### **Appeal Rights**

Any person who made relevant representations in relation to the application who desire to contend that

- a) That grant ought not to have been made; or
- b) That, when granting the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting closed at 11.35am.

**CHAIR:**

**DATED:**





## Licensing Sub-Committee

MINUTES of the Licensing Sub-Committee held on Monday 23 August 2010 at 10.00 am at Room G02c - 160 Tooley Street, London SE1P 2TZ

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**PRESENT:** Councillor David Hubber  
Councillor Michael Mitchell  
Councillor Sunil Chopra

**OTHERS PRESENT:** Mr Ali Keskinbiak, applicant's brother  
Mr John Nicola, security manager  
Mr Janusz Sinder, premises promoter  
Ms Jilly Frisch, Secretary, Shad Thames Residents Association  
Mr Douglas Jupp, local resident  
Mrs Susan Jupp, local resident  
Mr Julian Griffiths, local resident  
Mr Farrell, local resident  
Mrs Farrell, local resident  
Mr Robert Ordman, local resident  
Alan Blissett, principal environmental protection officer

**OFFICER SUPPORT:** Rosanna Keogh, licensing officer  
Kate Heap, legal officer  
Kenny Uzodike, constitutional team  
Bola Roberts, constitutional team

### 1. APOLOGIES

There were none.

### 2. CONFIRMATION OF VOTING MEMBERS

In the absence of the chair of the licensing committee, Councillor Lorraine Lauder, the three members were invited by the clerk to nominate and then vote for one of their number to chair this sub-committee. Councillor David Hubber was appointed as chair for this sub-committee.

The three members present were confirmed as the voting members.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were none.

#### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

#### 5. LICENSING ACT 2003 - THE DON, 1ST FLOOR, 224A TOWER BRIDGE ROAD, LONDON SE1 2UP

The licensing officer presented her report and informed the sub-committee that the applicant was not in attendance and had sent a letter explaining his absence and authorising his brother to represent him. She also informed the sub-committee that the applicant had accepted the revised condition 290 and an additional condition proposed by the police.

The applicants then presented to the sub-committee. Members and local residents had questions for the applicants.

The environmental officer presented his report and members asked questions.

The local residents then presented their objections to the application. Members had questions for the local residents.

All parties were given five minutes each to sum up.

At 11.36am the sub-committee went into closed session. At 12.10am the sub-committee resumed and the chair read out the following decision.

#### RESOLVED:

That the application by Huseyin Keskinbicak for a variation of the Premises Licence issued under the Licensing Act 2003 in respect of The Don, first floor, 224a Tower Bridge Road, London SE1 2UP is refused with the following exceptions:

Licensable Activity	Mon - Thursday	Friday	Saturday	Sunday
Live Music	21.00 00.30	21.00 01.30	21.00 01.30	21.00 00.30
The layout of the premises is to be varied in accordance with the plans submitted with the application.				
Condition 343 is to be removed.				

#### Conditions

That at least two (2) SIA registered Door Supervisors, at least one of whom shall be a female, shall be employed at all times after 22.00 hours and the terminal hour that the premises are in use under this licence and provided with hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their assistants.

#### Reasons

The reasons for this decision are as follows:

The licensing sub-committee heard from the applicant's brother, the security manager and one of the promoters. The applicant had submitted a letter explaining his absence and authorising his brother to speak on his behalf.

The sub-committee also heard from Alan Blissett, Principal Environmental Protection Officer, Jilly Frisch, Secretary of the Shad Thames Residents Association and seven other residents. The sub-committee considered all written representations including that of the Metropolitan Police.

The sub-committee heard that a complaint of noise nuisance had resulted in the service of a statutory notice in May 2009. The sub-committee further noted that the applicant had not completed section P of the application form.

The sub-committee was satisfied that the applicant had taken reasonable steps to address the concern of the escape of music from the premises.

The sub-committee was not satisfied that the applicant had addressed the issue of the prevention of the public nuisance in relation to the concerns raised as to the consequences of the application for extended hours. Accordingly, the sub-committee considered it necessary and proportionate to refuse the application in so far as it related to extended hours having regard to the licensing objective of the prevention of nuisance.

### **Appeal Rights**

The applicant may appeal against any decision to modify the conditions of the licence; and any person who made relevant representations in relation to the application who desire to contend that

- a) That grant ought not to have been made; or
- b) That, when granting the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting closed at 12.20pm.

**CHAIR:**

**DATED:**



## Licensing Sub-Committee

MINUTES of the OPEN section of the Licensing Sub-Committee held on Wednesday 1 September 2010 at 10.00 am at Town Hall, Peckham Road, London SE5 8UB

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<b>PRESENT:</b>	Councillor Catherine Bowman (Chair) Councillor Eliza Mann Councillor Althea Smith
<b>OTHERS MEMBERS:</b>	Tobias Jackson, +Venture Graeme Harris, agent for the applicant Madeleine Worrall, local resident Joseph Borg, local resident Katherine Berry, local resident Kristin Watt-Bonar, local resident Alan Blissett, environmental protection team
<b>OFFICER SUPPORT:</b>	Dorcas Millis, licensing officer Kate Heap, legal officer Sean Usher, constitutional team Bola Roberts, constitutional team (observing)

### 1. APOLOGIES

Apologies for lateness were received from Councillor Eliza Mann.

### 2. CONFIRMATION OF VOTING MEMBERS

The three members present were confirmed as the voting members. In the absence of the chair of the licensing committee, Councillor Catherine Bowman acted as chair of the sub-committee.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

There were no late items but the licensing officer circulated photographs of the premises to confirm the works required by the noise team had been carried out.

### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were none.

## 5. LICENSING ACT 2003 - ADVENTURE +, 72 LORDSHIP LANE, LONDON SE22 8HF

The licensing officer presented her report and introduced a letter on behalf of Ms Catherine Berry. The letter was a letter of objection rather than a letter of support so the letter was rejected by the sub-committee as it had been received after the deadline.

The applicant and his agent then presented to the sub-committee. Members had questions for the applicant. The local residents had questions for the applicant.

The noise officer addressed the sub-committee and informed them that on completion of the requested works, he was satisfied that noise containment had been addressed and that he would be withdrawing his objection based on the noise containment issue. The noise officer discussed the issue of noise related to dispersal and proposed remedial conditions. Members had questions for the officer. Local residents had questions for the officer.

The chair asked the 5 members of the public to address the sub-committee or nominate a spokesperson. The members of the public chose to speak in turn. Members had questions for the local residents. The applicant had questions for the local residents. The noise officer had questions for the local residents.

All parties were then given 5 minutes to sum up. At 12.03pm the meeting went into closed session. The meeting resumed at 1.19pm. The chair announced the following decision.

### RESOLVED:

The licensing sub-committee having considered the application by +Venture Battersea Limited for a variation of a Premises Licence issued under the Licensing Act 2003 in respect of Adventure +, 72 Lordship Lane, London SE22 have decided to refuse with the following exceptions and conditions:

Licensable Activity	Monday to Wednesday	Thursday	Friday and Saturday	Sunday
Recorded Music	10.00- 00.00	10.00- 01.00	10.00- 02.00 10.00- 02.00	10:00-00:00
These hours are in line with the hours applicable to the existing sale and supply of alcohol.				

### Conditions

Licence conditions 340 and 341 are removed and replaced by the following conditions, worded in accordance with the conditions numbered 1 and 2 in the police letter of representation dated 30 July 2010 (pages 83 and 84 of the agenda).

**Condition 340:** That Security Industry Association (SIA) registered door supervisors, at least one of whom shall be a female, shall be employed at all times after 22.30 when the

terminal hours is after 00.30 and provided with hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their assistants and mechanical counting devices to ensure that the maximum accommodation limit of the premises is not exceeded.

**Condition 341:** That you shall require any regular and external promoters hiring the premises to complete the 'Venue Hire Agreement' and, once completed, you shall ensure that a copy of the agreement is provided to the Police Licensing Unit a minimum of fourteen days prior to the date of hire.

### **Reasons**

The reasons for this decision are as follows:

The licensing sub-committee considered all the written representations and heard oral representations from Alan Blissett, principal environmental health officer and five local residents. Mr Tobias Jackson and his licensing agent made submissions on behalf of the applicant, +Venture Battersea Limited. The sub-committee noted that the Metropolitan Police representation had been conciliated and that the applicant had agreed to incorporate two new conditions as drafted by the police (on pages 83 and 84 of the agenda) and listed above, to replace the existing conditions 340 and 341.

Having heard from the applicant and Mr Blissett, the sub-committee was satisfied that the applicant had taken satisfactory steps to address the licensing objective of the prevention of nuisance by reason of the escape of music from the premises. Having considered the written representations of local residents and having heard from those residents present, the sub-committee was not satisfied that the applicant had adequately addressed the licensing objective of the prevention of nuisance in so far as it related to anti-social behaviour as aggravated by the excessive consumption of alcohol.

The sub-committee noted that two sixteen year old girls had recently been admitted to the premises and had been served alcoholic cocktails. The sub-committee was not satisfied that the bar staff and door staff were taking adequate steps to refuse entry and service to those under the influence of alcohol. The sub-committee noted that the premises had no outdoor space and that many complaints related to the consequences of drunken behaviour outside the premises and in nearby streets, in particular, fighting, shouting, slamming of car doors, public urination and vomiting. The sub-committee noted that Mr Jackson, the designated premises supervisor, visited the premises once or twice a week and appeared to be unaware of these problems which residents stated had been exacerbated since the licence was varied on 20 April 2009. The sub-committee noted that resident A20 (page 62 of the agenda) complained of nuisance on three occasions when a Temporary Event Notice (TEN) had been granted in July 2010.

Accordingly the sub-committee considered it was both necessary and proportionate, having regard to the licensing objective of the prevention of nuisance to refuse the application in so far as it related to the extension of hours for licensable activities.

The details of the variation granted are detailed above.

### **Appeal Rights**

The applicant may appeal against any decision to modify the conditions of the licence; and any person who made relevant representations in relation to the application who desire to contend that

- a) That variation ought not to have been made; or
- b) That, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The meeting closed at 1.23pm.

**CHAIR:**

**DATED:**

# Agenda Item 7

<b>Item No.</b> 7.	<b>Classification:</b> Open	<b>Date:</b> 28 September 2010	<b>Meeting Name:</b> Licensing Committee
<b>Report title:</b>		The Designation of Bankside Report - Resolution date	
<b>Ward(s) or groups affected:</b>		Borough and Bankside, Walworth, and Bermondsey Community Council Areas	
<b>From:</b>		Strategic Director of Environment and Housing	

## RECOMMENDATION

1. That the committee agrees and fixes an implementation date of 1 November 2010 being not less than 31 days after this Committee meeting, being a minimum of 28 days from date of first publication of the notice of order, the designations and prohibitions agreed at the Licensing Committee meeting held on 27 July 2010.

## BACKGROUND INFORMATION

2. On 27 July 2010 the Licensing Committee agreed to the following:
  - a) That the committee agrees to prohibit itinerant ice cream trading in the streets of the riverside area from Southwark's western boarder to St Saviour's Dock in the East, and bordered in the South by Southwark Street & St Thomas Street as set out in Map 1, Appendix A.
  - b) That the committee agrees to designate Areas 4 and 7 of the above area for the purposes of street trading as set our in Map 2, Appendix B.
  - c) That the committee agrees to designate the Area 5 in Map 2, Appendix B as an area for licensed busking.

## KEY ISSUES FOR CONSIDERATION

3. The London Local Authorities Act 1990 (as amended) allows councils to designate streets or part of streets for street trading and make a resolution specifying what can be sold or offered in that street. Section 24 of the Act sets out the procedure for designating a street as a licensed street.

1.	Order is made by the Licensing Committee, stating the date on which the order takes effect (to be not less than one month following the making of the order)
2.	Place a Notice of Making of the Order in the local press to run for two consecutive weeks, the first date of publication being no less than 28 days before the order comes into effect.

## Benefits of the proposal

4. The proposal is that the income generated from the licensed street trader would be redirected for the investment in the facility and the enforcement against illegal street traders and entertainers in the area



5. The proposal to designate these areas for the purpose of street trading will self finance additional officer resources for the area enforcing illegal street trading, unlicensed street entertainment and itinerant ice cream trading, the administration involved. This will ensure there will not be a further drain on Council resources.

#### **Supplementary advice from other officers**

6. The supplementary advice from other officers is integrated into the body of this report.

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Designation of Bankside for street trading and designation of Riverside as prohibited for ice cream trading (Committee report and minutes 27 July 2010)	160 Tooley Street	John McHenry 0207 525 2105
Designation of specified street for purposes of street trading – 6 March 2001 (Committee report and minutes)	Street Trading Section: SAST House, Dawes Street, London SE17 1EL	Sharon Coleman 0207 525 6000
London Local Authorities Act (as amended)	Street Trading Section: SAST House, Dawes Street, London SE17 1EL	Sharon Coleman 0207 525 6000
Prohibiting itinerant ice cream trading in the street of the riverside areas of Southwark (Committee report and minutes)	Street Trading Section: SAST House, Dawes Street, London SE17 1EL	Sharon Coleman 0207 525 6000
Resolution to adopt Part V of the London Local Authorities Act 2000	Street Trading Section: SAST House, Dawes Street, London SE17	Sharon Coleman 0207 525 6000
Draft Markets and Street Trading Strategy	160 Tooley Street	John McHenry 0207 525 2105

**APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix A	Map of proposed area to be designated
Appendix B	Map of proposed area to be designated for purposes of street trading and street entertainment.
Appendix C	Draft notice for publication

**AUDIT TRAIL**

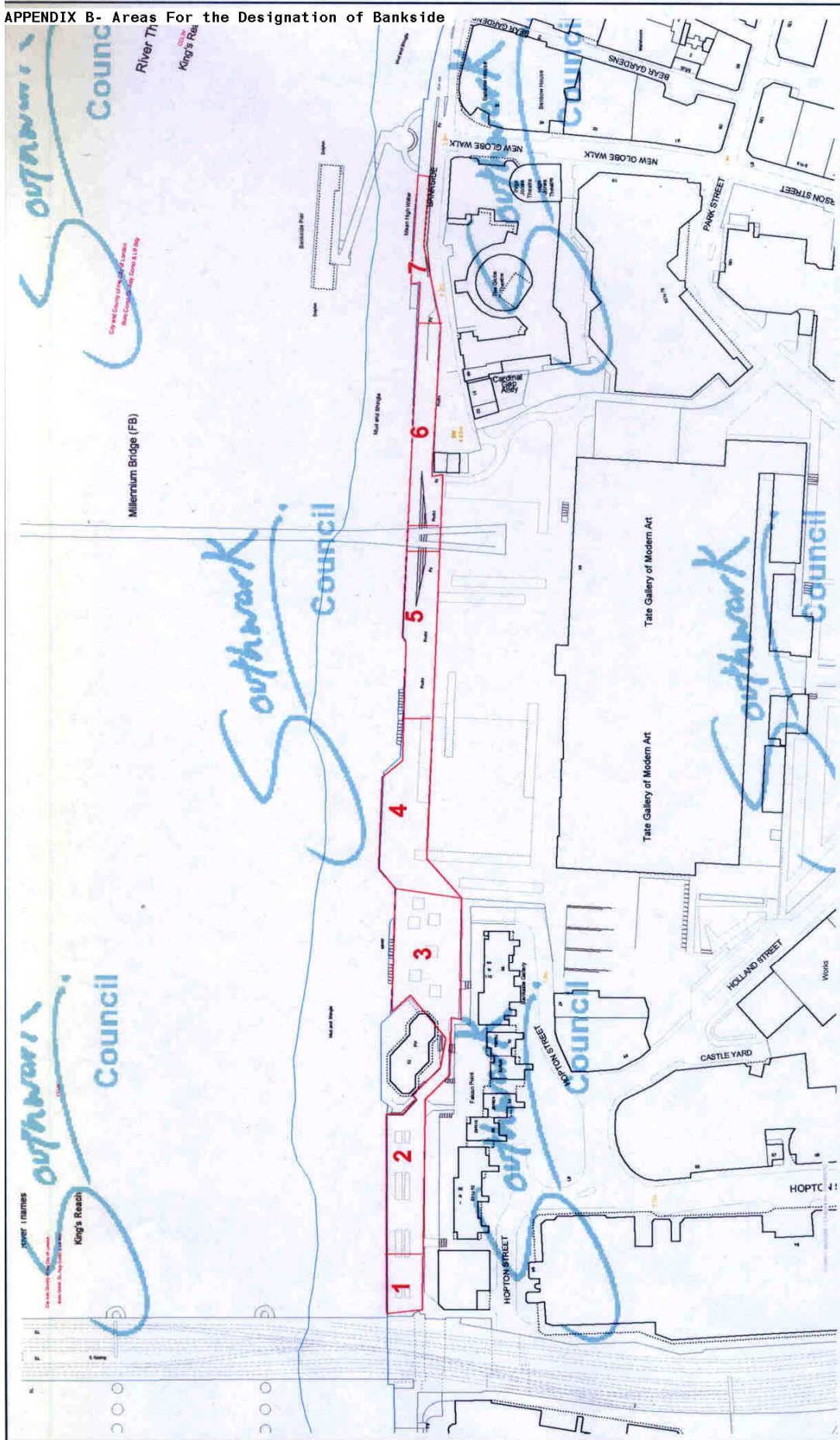
<b>Lead Officer</b>	Gill Davies – Strategic Director of Environment and Housing	
<b>Report Author</b>	Des Waters, Head of Public Realm	
<b>Version</b>	Final	
<b>Dated</b>	17 September, 2010	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Incorporated into the report.
Finance Director	Yes	No
<b>Cabinet Member</b>	Yes	No
<b>Date final report sent to Constitutional/ Team</b>	17 September 2010	

APPENDIX A- Entire area for Designation of Bankside





APPENDIX B- Areas For the Designation of Bankside



**LONDON BOROUGH OF SOUTHWARK****LONDON LOCAL AUTHORITIES ACT 1990, AS AMENDED****DESIGNATION OF AREAS 4, 5 & 7 RIVERSIDE AREA, LONDON**

NOTICE IS HEREBY GIVEN under section 24 of the London Local Authorities Act 1990, as amended, ("the Act") that on 27<sup>th</sup> July 2010 the Licensing Committee of the London Borough of Southwark passed a resolution:-

1. Prohibiting itinerant ice cream trading in the streets of the Riverside area from Southwark's western boarder to St Saviour's Dock in the East, and bordered in the South by Southwark Street & St Thomas Street.
2. Agreed to designate areas 4 and 7 of the above area for the purposes of street trading as set out in Map.
3. Agreed to designate Area 5 in Map, as an area for licensed busking.

The Prohibition of itinerant ice cream trading, designation of areas 4 & 7 for the purposes of street trading as identified in Map and the designation of area 5 in Map for the purpose of busking for the purposes of Part III of the Act comes into effect on 1<sup>st</sup> November 2010, as agreed by Licencing committee on 28<sup>th</sup> September 2010.

Further information concerning 1 – 3 above can be obtained from:-

Street Trading Section, SAST House, 47-53 Dawes Street, LONDON SE17 1EL.

Gill Davies  
Strategic Director Environment and Leisure

# Agenda Item 8

<b>Item No.</b> 8.	<b>Classification:</b> Open	<b>Date:</b> 28 September 2010	<b>Meeting Name:</b> Licensing Committee
<b>Report title:</b>		Adoption of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 – Licensing of Sexual Entertainment Venues	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Environment & Housing	

## RECOMMENDATION

1. That the committee recommends council assembly to agree the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, so as to provide a local licensing regime for the licensing of 'sexual entertainment venues.

## BACKGROUND INFORMATION

2. Section 27 of the Policing and Crime Act 2009, came into effect on 6<sup>th</sup> April 2010. It has had the effect of reclassifying lap dancing clubs and similar as 'sexual entertainment venues' and now offers local licensing authorities in England and Wales adoptive provisions to regulate such venues as sex establishments under schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.
3. These powers are not mandatory, however, and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to consider and determine applications on potentially wider grounds than is permitted under current law and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area. Importantly, this new provision gives local authorities powers to control the numbers and location of lap dancing clubs and similar venues in their area. If these provisions are not adopted then the status quo remains, enabling lap dancing and similar clubs to operate as music and dancing venues under the 2003 Licensing Act.
4. This report sets out the current legislative position and provides detail on the new licensing provisions. It asks the committee to recommend to council assembly the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009.
5. If these adoptive provisions are taken up, officers will return to the licensing committee and council assembly in due course with full proposals for the new licensing process and a draft supporting licensing policy. If the committee or, thereafter, council assembly are not minded to take up the adoptive provisions at this stage, the council is required by the governing legislation to go out to public consultation on the matter within one year of it coming into force. In this case officers will progress plans for public consultation on the matter to take place.

6. Guidance on the new 'sexual entertainment venues' licensing scheme has been produced by the Home Office. Copies may be viewed or downloaded at <http://www.lacors.gov.uk/lacors/upload/24193.pdf>

## **KEY ISSUES FOR CONSIDERATION**

### **Current legislative position**

7. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 provides local licensing authorities with adoptive licensing provisions for sex establishments, comprising the categories of sex shops and sex cinemas.
8. London local authorities which have additionally adopted the amendment to Schedule 3 to the 1982 Act offered by the Greater London Council (General Powers) Act 1986 are also able to regulate a third category of sex establishment known as 'sex encounter establishments' (covering any lawful entertainment, performance or service provided by persons who are without clothes or expose their breasts, genitals, urinary or excretory organs). This authority adopted all of the relevant provisions when the licensing responsibility moved across to London councils following the abolition of the Greater London Council in 1986.
9. However, an exemption contained under sub-paragraph 3A(i) of the 1982 Act, provides that premises which hold either a premises licence or a club premises certificate issued under the (now) Licensing Act 2003, which allows them to provide either regulated entertainment or late night refreshment, are not to be regarded as sex encounter establishments.
10. This exemption means that, in practice, there are very few premises in London that are licensed as sex encounter establishments. The majority of venues providing lap dancing, table dancing or other similar striptease entertainment currently need hold only premises licences with music and dancing issued under the 2003 Act to operate lawfully. Applications for premises licence under the 2003 Act are subject only to considerations relevant to the four licensing objectives being:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.

### **Meaning of sexual entertainment venues**

11. Paragraph 2A of Schedule 3 as inserted by Section 27 of the Policing and Crime Act 2009 defines the newly created category of 'sexual entertainment venue' as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer". The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)".
12. Guidance produced by the Home Office provides that while local authorities should judge each case on its merits, the definition of relevant entertainment would be expected to apply to the following forms of entertainment as they are commonly understood:

- Lap dancing;
  - Pole dancing;
  - Table dancing;
  - Strip shows;
  - Peep shows; and
  - Live sex shows.
13. The guidance emphasises that although reference is made to “live display of nudity” the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided ‘solely or principally for the purpose of sexually stimulating any member of the audience’.
14. Paragraph 2A(14) of Schedule 3 sets out the definition of a ‘display of nudity’. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man, it means exposure of his pubic area, genitals or anus.
15. References made to the ‘organiser’ under the definition means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided.
16. The new provisions do include some clarifications and exemptions. Spontaneous displays of nudity or a lap dance by a customer or guest will not result in the premises being classified as a sexual entertainment venue. Furthermore, paragraph 2A(93) of Schedule 3 sets out those premises that are not sexual entertainment venues. These are:
- Sex shops and sex cinemas (which fall into other categories under the 1982 Act);
  - Premises which provide relevant entertainment on an infrequent basis. These are defined as where
    - a) No relevant entertainment has been provided on more than 11 occasions within a 12 month period;
    - b) No such occasion has begun within a period of one month beginning with the end of the previous occasions; and
    - c) No such occasion has lasted longer than 24 hours.
17. Premises which provide relevant entertainment on an occasional basis will continue to be regulated by the 2003 Act. Premises which provide relevant entertainment on a regular basis will require a licence under the 1982 Act and, in all probability, a further licence under the 2003 Act should alcohol or late night refreshment sales be intended, but they will no longer be able to operate only under a 2003 Act licence alone.

### **Applications process**

18. The provisions contained within Schedule 3 of the 1982 Act provide for
- Written applications to be made for a sex entertainment licence providing details as set out in the Act and as the local authority may reasonably require;
  - Payment of a reasonable fee;
  - Public advertisement of applications by way of a notice exhibited at the premises for a period of 21 days and a notice published in a local newspaper;
  - Written objections to be lodged relevant to the ground for refusal of a licence (see paragraph 19 of this report); and
  - Public hearing of the application and any objection.



19. Paragraph 12 of Schedule 3 sets out the grounds for refusing an application. A licence must not be granted:

- To a person under the age of 18;
- To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- To a person, other than a body corporate, who is not resident in an EEA State or was not resident throughout the period of six months immediately preceding the date when the application was made; or
- To a body corporate which is not incorporated in an EEA state; or
- To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

20. Additionally, a licence may be refused where:

- The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- If the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- The number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- That the grant of the licence would be inappropriate, having regard –
  - To the character of the area or the relevant locality; or
  - To the use to which any premises in the vicinity are put; or
  - To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

### **Locality**

21. As stated above, a local licensing authority may refuse applications on grounds related to an assessment of the 'relevant locality'. The Home Office guidance establishes that it is reasonable and potentially useful to future applicants for a local authority to decide in advance of receiving applications that certain areas are, or are not, appropriate locations for sex establishments or a particular number of sex establishments. Case law has defined that a 'relevant locality' cannot be an entire local authority area or entire city or town. All applications must be considered upon their own merits.

### **Conditions**

22. Once a local authority has decided to grant a licence the authority is able to impose terms, conditions and restrictions on that licence. Subject to the provision in section 23 of this report below, these can be in the form of either standard conditions applicable to all sex establishments or specific categories of sex establishment or conditions specific to the particular operation under consideration at the time.

23. Conditions may address, but are not restricted to:

- The hours of opening and closing;
- Displays and advertisements on or in the premises;
- The visibility of the interior of the premises to passers-by; and
- Any change of use from one kind of sex establishment to another.

### **Policy implications**

24. While local authorities are not required to publish a licensing policy relating to sex establishments they can do so if they wish so long as it does not prevent any individual application from being considered on the merits at the time the application is made.
25. Presently, this authority has statements of licensing policy under both the 2003 Licensing Act (covering alcohol, regulated entertainment and late night refreshment) and also the 2005 Gambling Act. In accordance with the legislation, the statement of policy under the 2003 Licensing Act is currently subject of review required to be carried out every three years. It presently contains policies concerning the grant of premises licences which provide for the provision of 'adult' regulated entertainments, including reference to location. If these new adoptive provisions are taken up then it is proposed that a new specific sex establishments licensing policy be developed form the basis of the content in the 2003 Act policy.
26. It is proposed that, among it's various references, a sex establishments licensing policy would concern itself with
  - The licensing process including consultation provisions;
  - Definition of circumstances where the grant of a licence would be inappropriate; and
  - Standard conditions applicable to the grant of licences
27. The process of policy development would form the subject of a further report.

### **Timetable for implementation**

28. In the event that the adoptive provisions are to be taken up, council assembly must pass a resolution stating this decision and which specifies the day (the 1<sup>st</sup> appointed day) that the provisions will come into effect in the area. The specified date must be more than one month after the day on which the resolution was passed.
29. The resolution and the date of the 1<sup>st</sup> appointed day must then be published in notices appearing for two consecutive weeks in a local newspaper circulated in its area. The first publication of the notices must give at least 28 days notice of the specified date.
30. A 'transitional period' then commences lasting twelve months beginning with the 1<sup>st</sup> appointed day. The process that follows is set out below
  - To allow time to comply with the new regime, existing operators, who immediately before the 1<sup>st</sup> appointed day, hold a premises licence issued under the 2003 Licensing Act, which allows the licensee to lawfully use premises as a sex entertainments venue will be allowed to continue to provide relevant entertainment until either the 3<sup>rd</sup> appointed day (which falls twelve months after the 1<sup>st</sup> appointed day) or until such time as any application they have submitted is determined;
  - New operators (who do not hold relevant 2003 Act premises licences) who wish to use premises as sexual entertainment venues after the 1<sup>st</sup> appointed day will not

- be able to use those premises until they have been granted a sexual entertainment venue licence;
- After the 2<sup>nd</sup> appointed day (which falls six months after the 1<sup>st</sup> appointed day) the local authority must consider all applications received since the 1<sup>st</sup> appointed day, together. New applications granted will then take immediate effect. Licences granted to existing operators come into effect on the 3<sup>rd</sup> appointed day.
  - Applications made after the 2<sup>nd</sup> appointed day shall be considered when they are made but only once all applications made before the 2<sup>nd</sup> appointed day have been determined.

### **Community impact statement**

31. There are no premises currently operating within Southwark under a sex establishments licence issued under the Local Government (Miscellaneous Provisions Act 1982 (as amended)).
32. There are a very small number of premises licensed under the 2003 Licensing Act that have identified within their initial applications, an intention to provide 'adult' regulated (music and dancing) entertainment. It is believed that few among those that have indicated such intention to use 2003 Act premises licences in this way are doing so.
33. However, this authority has previous experience of applications for licences within the Southwark area for premises, which had the provisions being introduced under section 27 of the Policing and Crime Act 2009 been in force at the time, would have required 'sex entertainment venue licences':
  - The first application involved the related operation of a 'swingers club' in the SE1 area;
  - The second concerned an application to establish a lap dancing venue in the SE15 area;
  - The third concerned an application to establish a lap dancing club in the SE1 area.
34. In each case, the response to public consultation exercises held on the applications was considerable. The local media reported on each circumstance. The associated public hearings were lengthy and resource consuming. In each case members sitting in determination of the applications voiced concerns that their deliberations were constricted by the boundaries of the legislation the applications were made under.
35. On the back of these experiences this authority, along with many others, made representations to the Home Office seeking law change that would bring about a position where applications for adult entertainment licences could be considered on their merits but with all relevant matters (including location in particular) properly taken into account.
36. These new legislative provisions are seen to be the direct result of representations made from many quarters for such a law change.
37. One of the stated intentions of this authority as licensing authority within its licensing policies is to seek to enable responsible well managed businesses that benefit the local community to succeed but also to ensure that proper protections are afforded to the community against irresponsible operators.
38. The adoption of these new provisions is anticipated to enable better decision making around the adult entertainment market sector with the local community enabled to raise its concerns around all relevant matters and for decisions to be taken upon proper

consideration of those factors.

### **Resource implications**

39. Schedule 3 to the 1982 Act states that the application for grant, renewal, variation or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authority, but does not expand upon what would be considered to be reasonable.
40. Currently the fee for a new sex establishment licence is £7,604.
41. In the event that the new provisions are adopted a costings exercise will be carried out aimed at establishing appropriate application fees on a cost recovery basis. Regard will be had to existing guidance issued by the former Local Authority Co-Ordinator for Regulatory Services (LACORs) now Local Government Regulation.

### **Consultation**

42. No consultation has take place in the preparation of this report. As is noted in the report if the council does not adopt these provisions then formal public consultation must be carried out within one year of the date of them coming into force.
43. The cabinet member for community safety made the following comments

“This report seeks the adoption of new legislative powers enabling a licensing regime for lap dancing and similar establishments. For this authority in particular, having previously called for legislative change in the licensing position, it represents a progressive step in enabling full and proper debate of relevant issues around future licence applications for the establishment of such venues. This positive move forward is welcomed by the cabinet”

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

44. The adoption of the provisions of Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 as amended is intended to address a lacuna in the existing legislation in such a way as to enable local authorities to exercise greater control over the establishment and management of sexual entertainment venues in their area. The relevant procedures are clearly set out in the body of this report. The licensing committee will note that the council is not required to adopt the amended legislation but that if it determines not to do so the council must undertake a public consultation by 6 April 2011.

### **Finance Director (Env/ET/160810)**

45. There are no financial implications as a result of adopting the proposed legislation to provide a licensing regime for the licensing of sexual entertainment venues. If these new adoptive provisions are approved, then a further report will be presented to the committee with a proposed licensing policy, licensing process and fees. In line with the guidance, the fees will be set an appropriate level to recover the full cost including a reasonable proportion of overheads.

**BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Local Government (Miscellaneous Provisions) Act 1982 and related subsequent legislation Policing & Crime Act 2009 Licensing Act 2003 LACORS Guidance on fee setting Various 2003 Act case files Home Office Guidance on Sex Entertainment Venues	Health Safety Licensing & Environmental Protection Unit, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirty Read Phone number: 020 7525 5748

**AUDIT TRAIL**

<b>Lead Officer</b>	Gill Davies, Strategic Director of Environment & Housing	
<b>Report Author</b>	Richard Parkins, Health Safety Licensing and Environmental Protection Unit Manager	
<b>Version</b>	Final	
<b>Dated</b>	17 September 2010	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	16 September 2010	

<b>Item No.</b> 9.	<b>Classification:</b> Open	<b>Date:</b> 28 September 2010	<b>Meeting Name:</b> Licensing Committee
<b>Report title:</b>		Gambling Act 2005 – Three Year Revision of Southwark Statement of Gambling Licensing Policy	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Environment & Housing	

## RECOMMENDATION

1. That the Southwark statement of gambling licensing policy for 2010 – 2013 be recommended for adoption by council assembly.

## BACKGROUND INFORMATION

2. The Gambling Act 2005 came into effect on 1 September 2007. The Act established a new licensing regime for all gaming and betting in Great Britain, other than spread betting and the national lottery.
3. The Act established the gambling commission as the unified regulator for gambling. The commission has responsibility for granting operating and personal licences for commercial gambling operators and key personnel working in the industry.
4. Licensing authorities support the work of the commission and have separate responsibility for licensing gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines. Categories of gambling premises covered by the licensing regime include:
  - casinos;
  - bingo halls;
  - adult gaming centres;
  - family entertainment centres;
  - betting premises
5. The Act contains three licensing objectives, which underpin the functions that the commission and licensing authorities perform. These objectives are central to the Act. They are:
  - preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way; and
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
6. Section 349 of the Act requires each licensing authority to prepare and publish, every three years, a statement of the principles they propose to apply in exercising their functions under the Act. The statement, which may also be referred to as a “policy”, can be reviewed and re-published during the three year period in which it has effect. In

preparing the statement, licensing authorities must follow the procedure set out in the Act, including who should be consulted.

7. The Southwark statement of gambling licensing policy 2007 - 2010 forms the authority's current statement of principles. The original statement was formally approved by council assembly on 6 December 2006. The policy document was formally published on 3 January 2007.
8. A revised policy statement for 2010 – 2013 has been compiled taking into account responses from a public consultation exercise conducted during the autumn of 2009. A copy is provided at appendix A to this report. This revision is put to the committee for approval and recommendation for adoption to council assembly accordingly.

## **KEY ISSUES FOR CONSIDERATION**

### **Compilation of the policy statement**

9. Section 153 of the 2005 Act sets out that “In exercising their functions under (the Act) a licensing authority shall aim to permit the use of premises for gambling in so far as the authority thinks that it is:
  - in accordance with any relevant code of practice (issued by the commission);
  - in accordance with any relevant guidance issued by the commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the statement published by the authority.”
10. The gambling commission first published its Guidance to Licensing Authorities in May 2007. The latest edition (the third) was published in May 2009.
11. The commission has also published a range of codes of practice covering the breadth of gaming and betting activity.
12. This draft revision of the policy statement has been compiled having had regard to the Act and regulations, the guidance issued by the commission; and the various codes of practice also issued by the commission. Regard has also been had to the format and content of the model statement of principles produced by the former local authorities' coordinator for regulatory services (LACORs) now local government regulation (LGR).

### **Main revisions**

13. As many of the regulations to the 2005 Act were only available in draft form at the time that this authority's original statement of policy was approved and as the commission's guidance is now on its third revision, the statement of policy is subject to minor amendment throughout. Accordingly, the main revisions to the original policy comprise technical updates arising from amendments to the gambling commission's guidance for local authorities. Some of the most important updates are summarized below:
  - Revised advice (based on commission guidance) is provided through sections 102 to 105 of the draft policy, on the definition of 'premises'. This information examines, in particular, considerations this authority will take into account when determining whether an application to 'split' a licensed premises amounts to either 'artificial' or 'temporary separation' of premises for the purposes of enabling higher quotas of high payout 'jackpot' gaming machines than are provided for by the governing legislation;

- Sections 106 to 110 provide new advice on when a premises may be considered to be “ready for gambling” helping to clarify the circumstances under which applications for either ‘provisional’ or ‘full’ premises licences may be made and considered;
  - Section 157 to 165 of the draft policy now contains full information on the commission’s relevant access provisions for each gambling premises type;
  - Section 158 returns to the issue of ‘split’ premises with particular regard to bingo premises and applications for multiple licences; and
  - Sections 194 to 199 provide new information, following the publication of new regulations, concerning the use of temporary event notices for poker tournaments.
14. This council’s primary responsibility as licensing authority is for the licensing of Southwark premises used for gaming and betting and the authority’s primary concern rests with the third licensing objective, that of “protecting children and other vulnerable persons from being harmed or exploited by gambling”. As such this council recognises within its licensing policy, the contribution made toward achieving this objective by the commission’s social responsibility code of practice and the conditions of the commission’s related personal and operator’s licensing regimes. The policy also recognises direct requirements made by the commission on operators to have policies and procedures in place for promoting socially responsible gambling; providing clear information about responsible gambling and help available to problem gamblers; and providing training for staff about possible problem gambling and how to identify it. The policy further notes restrictions on access by children and young people to gambling premises. The policy complements the legislative position and steps taken by the commission by providing local advice and guidance on age identification and management of age restricted gaming machines in premises where children and young people may be admitted. The policy also continues to acknowledge the Southwark safeguarding children board as the competent body to advise on child safety matters and contributions made to the original policy by the board remain relevant.
15. The revised policy now additionally recognises the Southwark safeguarding adults board as the competent body to advise on matters around vulnerable adults and, in future, reference will be made to this body where relevant issues arise.

### **Response from public consultation**

16. Public consultation was conducted on the draft revision of the policy between 1 September and 20 November 2009.
17. As part of the consultation
- Information was published in the local media and on the Southwark licensing web site;
  - Direct letter drops were made to
    - local premises licence holders;
    - responsible authorities specified under the Act; and
    - known trade representative organisations;
    - known representatives of community representative groups;
    - and
    - ward councillors
  - Information was made available to community council meetings.
18. Whereas public consultations undertaken in recent years on development of policy around the 2003 Licensing Act (dealing with alcohol, entertainment and late night



refreshment) have received good levels of response, the response to consultation on the 2005 Act was again disappointing, perhaps reflecting the lower levels of interest in this matter.

19. In total only 6 responses were received, three from responsible authorities, two from other interested services; and one from a trade organisation. A summary of the responses, setting out the points made and responses to each point, is provided at appendix B to this report.
20. Responses to the consultation include confirmation on behalf of the borough commander that the revised policy is supported by the metropolitan police.

### **Community impact statement**

21. As established by the licensing objectives set out in the Act, this legislation intends to help ensure that authorised gambling activity is not associated with crime; is conducted in a fair and open way; and with adequate protections for children and vulnerable people.
22. The licensing processes applied by this authority are consistent with those established by statute by way of the Act and related regulations and the further guidance and direction given by the gambling commission.
23. The council has a duty to consider every application for relevant licences and consents made to it. Each application is considered upon its own merits with all relevant matters taken into account. There are no artificial barriers provided by this policy or by any council process or practice to any person wishing to make a licence application nor any person who qualifies as an 'interested party' under the Act from having their views on an application taken into account.
24. This policy revision forms a technical update to the original policy published in 2007.
25. The policy maintains local policy concerning the location of gambling premises in areas where there may be particular issues relating to children and vulnerable people. Furthermore, the policy provides commitment to supporting the commission as and 'eyes and ears' enforcement agency within the Southwark area.
26. The initial statement of policy was subject of an equalities impact assessment. The assessment has been revisited in the light of the revisions. No new issues have been raised by the revisions.

### **Resource implications**

27. There are no specific resource implications contained within this report.

### **Consultation**

28. Details of public consultation carried out in preparation of this report are detailed in sections 18 to 22 of this report.
29. The cabinet member for community safety made the following comments:

"This revision of the council's statement of gambling licensing policy primarily represents a technical update of the content incorporating new guidance developed since the original policy was first established in 2007.

The policy sets out how this council, as licensing authority, approaches its responsibilities for the licensing of gaming and betting establishments paying particular attention to the authority's primary concern of protecting children and vulnerable adults from being harmed or exploited by gambling. I am particularly pleased to note that this revision further strengthens the authority's ability to meet its responsibilities by introducing and recognising the safeguarding adults board as the competent authority to advise on matters regarding the safeguarding of vulnerable adults"

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

30. The licensing committee are asked to consider the recommendation contained in paragraph 1 of this report and when doing so be satisfied that the licensing authority has adhered to the provision of Section 349 of the Gambling Act 2005.
31. The licensing committee are advised that section 349 of the Act imposes a duty on the gambling authorities to review and revise its statement of gambling licensing policy each successive three years and, and if the authority thinks it necessary in the light of a review, revise the statements and publish any revision before giving effect to it.
32. The licensing committee must be satisfied that in preparing the revised statement of gambling policy that the licensing authority has:
  - (a) consulted the chief officer of police for the authority's area; and
  - (b) one or more persons who appear to the authority to represent the interest's of persons carrying on gambling business in the authority's area, and
  - (c) one or more persons who appear to the authority to represent the interest of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act.
33. The Secretary of State may make regulations:
  - about the form of the statement;
  - the procedure to be followed in relation to the preparation, review or revision of statements
  - The publication of the statement.
34. The licensing committee must satisfy itself that the authority has provided in details the broad principles in which it intends to apply in discharging of its functions under the Gambling Act 2005 having regards to the licensing objectives as contained in paragraph 5 above.
35. It is also important that the licensing authority's decision making processes are in accordance with section 153 of the Act as contained in paragraph 9 above.
36. The licensing authority must have in place in the exercise of its functions, principles that are in accordance with the gambling commission guidance and are not duplication of other regulatory regime so far as possible but the processes should be :
  - **Proportionate**- That the authority will only intervene in the regulation of gambling activities where it is necessary. It shall ensure that remedies applied are

appropriate to the risk posed. Costs identified and minimised.

- **Accountable:** The licensing authority must be able to justify its decision and which is subject to public scrutiny.
- **Consistent:** the rules and standard of decision making are joined up and are implemented fairly and consistently.
- **Transparent:** The licensing authority are open and kept its regulations simple and user friendly (documents and publication can be easily obtained and available upon reasonable request), and;
- **Targeted:** The regulation is focused on the problem, and minimised side effects that may occur in the exercise of its functions.

37. It is important that the revised statement of gambling licensing policy have in place adequate measure to ensure there will be compliance with the licensing authority's duty under the Human Rights Act 1998 so that its processes and functions are human rights compliant. The licensing authority must bear in mind when doing so that the provisions under :

- Article 1, protocol 1 – The right to peaceful enjoyment of possession. A licence is a possession in law and people should not be deprived of it except it is in the public interest.
- Article 6- The right to a fair hearing
- Article 8 – The right to respect for private life and family life. (Removal of or restriction of a licence may affect a person's private life).
- Article 10 – The right to freedom of expression are complied with when discharging its functions under the Act.

38. The licensing committee is asked to consider the recommendation contained in paragraph 3 of this report and in doing so to ensure that all matters highlighted above have been adequately addressed in the statement of gambling licensing policy.

#### **Finance Director (Env/ET/030810)**

39. The head of services has confirmed that any costs of implementing the proposed policy can be contained within the existing revenue budgets of the division. .

#### **BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Gambling Act 2005 plus associated regulations Gambling Commission Guidance for Licensing Authorities Gambling Commission Codes of Practice Consultation documents including responses received	Health Safety & Licensing Unit, C/O The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirty Read Phone number: 020 7525 5748

**APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix 1	Draft Southwark Statement of Gambling Licensing Policy 2010 - 2013
Appendix 2	Summary of consultation responses

**AUDIT TRAIL**

<b>Lead Officer</b>	Gill Davies, Strategic Director of Environment & Housing	
<b>Report Author</b>	Richard Parkins, Health Safety Licensing & Environmental Protection Unit Manager	
<b>Version</b>	Final	
<b>Dated</b>	17 September 2010	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
List other officers here		
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	17 September 2010	

**THE SOUTHWARK  
STATEMENT OF  
GAMBLING  
LICENSING POLICY  
2010 - 2013 (Final)**



## LEGAL BACKGROUND TO THIS DOCUMENT

The Gambling Act 2005 (the Act) received royal assent on 7 April 2005. It repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusement Act 1976 and provided a new regulatory system to govern the provision of all gambling in Great Britain other than the national lottery and spread betting.

The Act introduced a new unified regulator for gambling in Great Britain, the gambling commission. The commission replaced the gaming board of Great Britain.

The Act came into effect in 2007. Since 2007 the commission has been responsible for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters.

From 2007 licensing authorities have had responsibility for licensing gambling premises in their area, as well as undertaking functions in relation to lower stake gaming machines and clubs and miners' welfare institutes.

Licensing authorities are required by the Gambling Act 2005 to consult upon and publish a statement of the principles, which they propose to apply when exercising their functions under the act. This statement must be published at least every three years and be reviewed from "time to time". Any amendments must be subject of further consultation.

Southwark council's original statement of licensing policy was first published on 3 January 2007, following approval by council assembly on 6 December 2006. This first revision of the policy was compiled in 2009. In producing this revision to the statement of licensing policy, this authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance to the licensing authorities issued by the gambling commission, and any responses from those consulted on the policy statement.

A list of those parties with whom the council consulted directly is attached at appendix A to this document. It should be noted that unsolicited comments were received also.

The consultation followed the Revised Code of Practice (which came into effect in April 2004) and the cabinet office guidance on consultations by the public sector. These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>  
<http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>

The full list of comments made and the consideration by the council of those comments is available by request to

The health safety licensing & environmental protection unit manager  
C/O Southwark community safety enforcement business unit  
The Chaplin Centre  
Thurlow Street  
London, SE17 2DG  
Tel contact – The customer service centre on 020 7525 2000 or  
e-mail – [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

This policy was approved by the full council assembly on (*date tbc*). It was published on the council's website on (*date tbc*) and came into effect on (*date tbc*). Hard copies are available from the licensing service. Copies will be placed in the public libraries of the area as well as being available in the town hall.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the address given above.

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## SECTION ONE – EXECUTIVE SUMMARY

This policy, alongside our complementary (alcohol, entertainment and late night refreshment) licensing policy recognizes the change that is taking place within Southwark and how recent development and regeneration projects are adding to the growing value and importance of our borough. It recognises also the extent of the contribution of the leisure and entertainments industry.

Southwark enjoys a widespread and diverse selection of licensed premises and venues. Some 1,200 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late night refreshment. These range from off-licences, shops and supermarkets; restaurants, cafes and take-away establishments; to pubs, bars, members clubs, night clubs, theatres, cinemas and indoor sports facilities. There are in excess of 100 additional gaming and betting facilities, comprising of bingo halls, amusement arcades and betting offices. Together they combine to provide a wide-range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.

As long as premises are well run and premises management recognises the value of working together with the local community, they can make a significant contribution toward building community cohesion and cultural development.

Of course, negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. With gaming and betting establishments there are also risks of individual gambling addiction.

Our policy seeks to provide necessary balance between providing a platform upon which responsible business operators may contribute toward a thriving business and late night economy while ensuring that the quality of life of those who live and work in the borough is protected and enhanced through the licensing system. We believe these aims are achievable if all parties concerned work together.

The opening sections of this policy help establish how we set out to address our licensing responsibilities under the Act. Section two of our policy provides an introduction to our borough and our council, while section three sets out the purpose and scope of the policy. Section four covers our administrative arrangements for determining applications (including consultations), confirming the bodies the authority recognises as competent to advise on issues of child protection and protection of vulnerable adults, and the principles this authority will apply in determining whether someone qualifies as an interested party. Section five helps complete an overview by outlining other relevant policies, objectives and guidance.

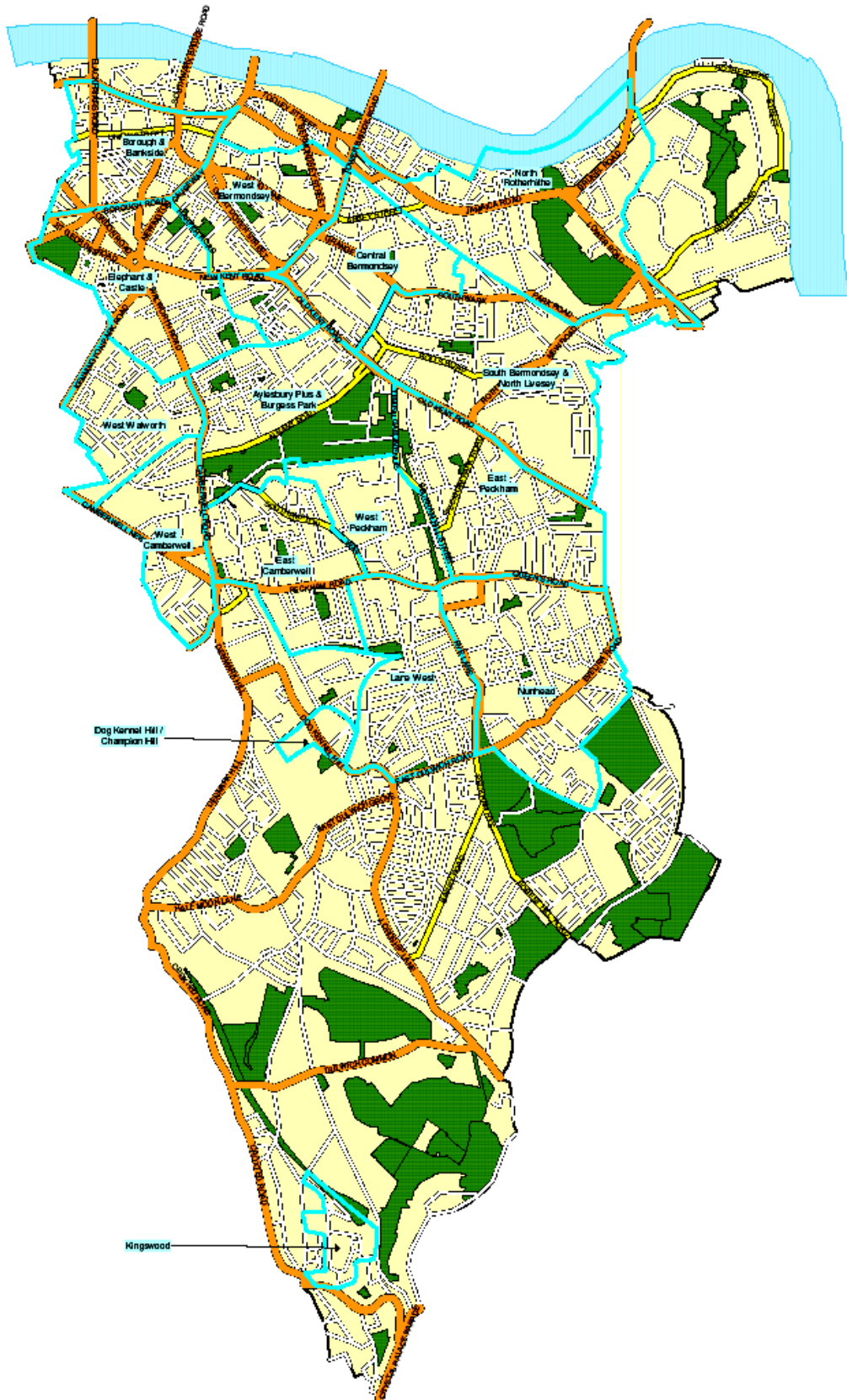
Section six deals with premises licences in some detail and applicants for such licences are urged to read this section, in particular, carefully. It provides advice on 'definition of premises' and 'premises ready for gambling' and helps clarify the position on 'provisional statements'. It goes on to examine issues relevant to the three licensing objectives (with particular consideration given to the third objective of preventing harm to children and vulnerable people) and, importantly, gives advice and information of the expectations of the licensing authority and the other responsible authorities around these objectives. This includes access arrangements; age identification schemes; restrictions on advertising; and social responsibility. Section six also sets out this authority's policy on location of licensed premises. This section also covers issues around social responsibility and sets out requirements for access arrangements across categories of premises.

Section seven of this policy provides a statement of the principles this authority will consider when considering applications for permits, temporary and occasional use notices. Section eight deals with the matter of small society lotteries.

Section nine of our policy sets out our approach to enforcement, examining how we aim to ensure that our enforcement actions are targeted where they are needed most and co-ordinated together with our partners. It also sets out how we aim to ensure that our enforcement actions are carried out in a fair, consistent and transparent manner.

This policy will be regularly reviewed and will be subject of public consultation at least every three years. We welcome your thoughts on its content and the manner in which we undertake our responsibilities under it.

**SECTION TWO – ALL ABOUT SOUTHWARK**



1. Alongside the City of London, Southwark is one of the oldest areas of London, with a history stretching back to Roman times. Southwark's population reached 274,000 in 2007 and is believed to be growing by as much as 4,000 per year, with a projected population of over 310,000 by 2016. The population has a young demographic profile and demonstrates rich ethnic and cultural diversity, with around one-third (90,600) of the population from black or ethnic minority communities. With this figure set to rise to 38% by 2011. Southwark is arguably one of the most diverse areas in the capital.
2. Southwark is made up of eight very distinctive urban neighbourhoods that extend along the river Thames and down into South East London. The borough also encompasses some of London's top attractions, creative hotspots, scenic villages and acclaimed green spaces.
3. Southwark has a wide-range of leisure and cultural opportunities; and makes a significant economic and employment contribution to the local community. The north of the borough is recognized as one of London's fastest growing tourist quarters and a thriving business location.
4. Alongside the borough's rich vibrancy, Southwark has its fair share of challenges. The Index of Multiple Deprivation (IMD) 2007 shows Southwark as the 27th most deprived local authority nationally and 60% of the borough's wards are among the 10% most deprived in the country. Consequently, the borough faces many challenges associated with meeting the complex health and social needs of an inner-city population. Unemployment in Southwark (8.9%) is higher than the London average (6.7%) and the percentage of the working population claiming benefits in Southwark is 15.6% compared to 13.9% across London. Gross weekly earning for both men and women in Southwark is lower than the London average.
5. In terms of violent crime, Southwark records a significantly higher number of violence against the person and robbery incidents compared to the London average.
6. Whilst there have been improvements, the attainment rates for Southwark pupils at Key Stages 1 and 2, GCSE and A levels are below the national average. Teenage conception rates for Southwark are still one of the highest in England.
7. To meet our challenges, Southwark has a large number of physical regeneration programmes across the borough, alongside a wide range of initiatives aimed at improving educational standards, reducing crime and improving health, housing, social care and the environment

### **Leading Southwark**

8. Southwark is made up of 21 wards, with 63 councillors; three from each ward. These councillors sit on the council assembly, which is the “sovereign” body of the council. The assembly is chaired by the Mayor of Southwark and is responsible for approving the budget and policy framework. Currently Labour holds 35 seats, the Liberal Democrats 25 and the Conservatives 3 seats.
  
9. The council operates a strong leader / cabinet model. The cabinet is headed by the leader and deputy leader, with a further nine members holding portfolios of
  - Housing management
  - Children’s services
  - Equalities and community engagement
  - Community safety
  - Culture, leisure, sport and the Olympics
  - Transport, environment and recycling
  - Health and adult social care
  - Regeneration and corporate strategy
  - Finance and resources
  
10. The cabinet is responsible for leading the community planning and consultation process, drafting the budget and policy framework, and taking most decisions on resources and priorities.
  
11. Scrutiny committees take a close look at council decisions and activities and call for the council to be open and accountable. They examine services provided by the council and review the council’s budget and policies. Scrutiny can look at, or ‘call-in’ decisions made by the cabinet and recommend decisions are changed or reconsidered.
  
12. A licensing committee is established to consider licensing policy with contested licence applications being considered by Sub-Committees of the main committee as set down in table 1 in Section 4 of this document. Licensing matters fall under the responsibility of the cabinet member for community safety.
  
13. Eight ward based community councils were established in April 2003 to take local decisions in key areas that have a direct impact on the local neighbourhoods.

## SECTION THREE – PURPOSE AND SCOPE OF THE POLICY

### Purpose of the policy

14. This policy has four main objectives

- To reinforce to elected members on the licensing committee, the boundaries and power of the local authority and provide the parameters under which these licence decisions are made
- To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area
- To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed
- To support licensing decisions that may be challenged in a court of law

### Scope of the policy

15. This policy covers matters arising from the range of functions and duties falling to the licensing authority under the act.

16. Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing **premises licences** in respect of casino premises; bingo premises; betting premises, including tracks; adult gaming centres; and family entertainment centres;
- Issue **provisional statements**;
- Regulate **members' clubs** and **miners' welfare institutes** who wish to undertake certain gaming activities by issuing **club gaming permits and / or club machine permits**;
- Issue **club machine permits to commercial clubs**;
- Grant permits for the use of certain lower stake gaming machines at **unlicensed family entertainment centres**;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
- Issue **licensed premises gaming machine permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required;
- Register **small society lotteries** below prescribed thresholds;
- Issue **prize gaming permits**;
- Receive and endorse **temporary use notices**;
- Receive **occasional use notices**;

- Provide information to the gambling commission regarding details of licences issued (see section on 'information exchange'); and
- Maintain registers of the permits and licences that are issued under these functions

17. It should be noted that local licensing authorities are not involved in licensing remote gambling. This is regulated by the gambling commission through operating licences.

### **The licensing objectives**

18. In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

19. It should be noted that the gambling commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

### **Definitions**

20. "Gambling" is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize;
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not; and
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process, which relies on chance.

### **General information**

21. The licensing authority is aware that, as per section 153 of the Act, when making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- In accordance with any relevant code of practice issued by the gambling commission;
- In accordance with any relevant guidance issued by the gambling commission;
- Reasonably consistent with the licensing objectives; and



- In accordance with the authority's statement of licensing policy.
22. However, the authority may depart from this policy, if the individual circumstances of any case merit such a decision, in the interests of promoting the licensing objectives. Where such a decision is taken, full reasons for the departure from the policy will be given.
  23. While this statement sets out the council's general approach to the making of licensing decisions, nothing in this statement overrides the right of any person to make an application; make representations about an application; or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

<b>SECTION FOUR – ADMINISTRATION, EXERCISE AND DELEGATION OF THE FUNCTION</b>
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24. This document does not set out to deal with the circumstances under which any one of the available licences or consents may be required, nor does it attempt to set out the applications process.
25. Instead a range of separate guidance documents is available from the Southwark licensing service. These include:
- “Guidance to Premises Licences”;
  - “Guidance to Club Gaming Permits & Club Machine Permits”;
  - “Guidance to Unlicensed Family Entertainment Centres”;
  - “Guidance to Licensed Premises Gaming Machine Permits”;
  - “Guidance to Small Society Lotteries”;
  - “Guidance to Prize Gaming Permits”;
  - “Guidance to Temporary Use Notices and Occasional Use Notices”;
  - “Guidance to Hearing of Representations and Licence Reviews”;
  - and
  - “Guidance to Fees and Charges”.

#### **Applications – general**

26. Applications for any of the variety of licences and consents available from this council must be made on the form prescribed in regulations laid down by the Secretary of State. Applications shall not be progressed until the form has been completed in full and this, together with the relevant fee, and all other required information has been received by the licensing authority. Applications will be progressed in accordance with the Act. Prospective applicants should refer to the relevant guidance document for further information.

#### **Provision of scale plans**

27. Section 51 of the Act requires applicants to submit plans of the premises with their applications, in order to ensure that the licensing authority has the necessary information to make informed judgement about whether the premises are fit for gambling. The plan will also be used by the licensing authority to plan future premises inspection activity. (See guidance to licensing authorities, para.20.28).
28. Applicants should note that this council requires that current plans in scale 1:100 be submitted with all new applications for premises licences and for any application for a variation of a premises licence, unless otherwise agreed by this authority in writing. Plans need not be professionally drawn but must include all required detail.

#### **Responsible authorities**

29. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under section 157(h) of the Act to

designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of Southwark; and
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc
30. In accordance with the gambling commission's guidance for licensing authorities, this authority designates the Southwark safeguarding children board for this purpose.
31. This authority additionally recognises the Southwark safeguarding adults partnership as the body competent to advise the authority on issues relating to the protection of vulnerable adults.
32. The other responsible authorities are:
- The Southwark licensing authority;
  - The gambling commission;
  - The Southwark chief officer of police;
  - The Southwark fire and rescue authority;
  - The local planning authority;
  - Southwark environmental health service; and
  - HM Revenue and Customs.
33. The contact details of all the responsible bodies under the Gambling Act 2005 are provided at the end of this document. Details are also available on the council's website at [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing).

### **Interested parties**

34. Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
35. "A person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- ***Lives sufficiently close to the premises to be likely to be affected by the authorised activities;***
  - ***Has business interests that might be affected by the authorised activities; or***
  - ***Represents persons who satisfy (the above)"***
36. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

37. The position of this authority is that each case will be decided upon its own merits. This authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the gambling commission's guidance to licensing authorities at 8.11 to 8.18. It will also consider the commission's guidance that the term "has business interests" should be given the widest possible interpretation and include partnerships, faith groups and medical practices.
38. Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, community councils likely to be affected, will be considered interested parties. Other than those, however, this authority will generally require written evidence that a person / body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A proforma authorisation form is available on the licensing web site or upon request from the licensing office.
39. If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the licensing sub-committee dealing with the licence application. If there are any doubts then please contact the licensing service (*see contact details provided at the end of this document*).

### **Consultation arrangements**

40. This authority considers it important that the local community is fully aware of local licensing applications being made within its area. Requirements for applicants to advertise applications for new and varied premises licences by way of a public notice displayed at the premises and in the local press are laid down under statute. No applications for licences will be progressed by this council unless all public consultation requirements are met in full. Checks will be made to ensure that notices at application premises are displayed, so as to be clearly seen by passers by and maintained in position for the length of the consultation period.
41. As an additional aide to community awareness the licensing service has established a public register at <http://app.southwark.gov.uk/licensing/licenseregister.asp> upon which detail of all current licence applications under consideration (alongside detail of currently licensed premises) will be maintained. It is open to any person who wishes to be kept abreast of the latest applications to subscribe to "licensing alerts", by which e-mail notifications will be sent to those who have registered, when a new licence application is made within the relevant ward. Furthermore, the licensing service will ensure

that local ward councillors are informed of all new applications in their area.

### **Representations**

42. It is open to any “responsible authority” or “interested party”, to lodge representations in respect of an application for a premises licence during the set consultation period. A representation would only be “relevant” if it relates to one or more of the licensing objectives, or raises issues under the policy statement, or under the commission’s guidance or codes of practice.
43. The commission’s guidance for local authorities advises that “moral objections to gambling are not a valid reason to reject applications for premises licences” (except as regards any ‘no casino resolution’ see section on casinos) and also that unmet demand is not a criterion for a licensing authority.
44. It is also for the licensing authority to determine on its merits whether any representation by an interested party is “frivolous” or “vexatious”.
45. When considering whether any representation made to it is “frivolous” or “vexatious” the authority will consider matters such as:
  - Who is making the representation, and whether there is a history of making representations that are not relevant;
  - Whether it raises a “relevant” issue” or
  - Whether it raises issues specifically to do with the premises that are the subject of the application.
46. Representations must be received in writing at the licensing service office by the last date for representations. Representations must be signed, dated, provide the grounds of representation in full and include the name and address of the person / body making the representation.
47. Where representations are being made by a trade association, trade union, residents’ and tenants’ association, or similar, information must be provided on the membership that live sufficiently close to the premises to be classed as interested parties.
48. Further information, including an outline of the process that is followed at public hearings, can be found in the separate document “Guidance to the Hearing of Representations and Licence Reviews”.

### **Determinations**

49. Section 154 of the act provides that all decisions relating to premises licences are delegated to the licensing committee of the authority that has been established under section 6 of the Licensing Act 2003 except:
  - A resolution not to issue casino licences;
  - Functions in relation to the three year licensing policy; and

- Setting fees.
50. Decisions that are delegated to a licensing committee may be further delegated to a sub-committee of the licensing committee. The council's licensing committee is established with provision for sub-committees of three members to be drawn from the overall pool of the main committee membership.
  51. The council intends to establish a speedy, efficient and cost-effective licensing system and, thereby, where the Act carries a presumption of grant for non-contentious applications, these matters will be delegated to officers. All such matters will be reported for information and comment only to the next full licensing committee meeting.
  52. Where matters are subject of representations, this council will normally attempt to reach a negotiated outcome through our conciliation process. Conciliation is offered as we recognise that the best solutions are normally ones that all concerned parties can sign up to and in order to attempt to save the time and costs associated with holding a public hearing. Conciliation will be attempted up until 24 hours before the arranged hearing date. Where it is not possible to reach agreement, the application and representations will be determined by the sub-committee.
  53. Table 1 below sets out proposals for the delegation of decisions and functions to licensing committee, sub-committees and officers. This form of delegation is without prejudice to the council's right to redirect an application as appropriate in the circumstances of any particular case.

Matter to be dealt with	Full council	Sub-committee of licensing committee	Officers
Final approval of three year policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Application for a transfer of a premises licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or representations withdrawn
Review of a premises licence		X	
Application for a club gaming / club machine permit		Where objections have been made (and not withdrawn)	Where no objections have been made / objections have not been withdrawn.
Cancellation of a club gaming / club machine permit		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

**Table 1 – Delegation of decisions and functions**

### Licence reviews

54. Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
- In accordance with any relevant code of practice issued by the gambling commission;
  - In accordance with any relevant guidance issued by the gambling commission;
  - Reasonably consistent with the licensing objectives; and
  - In accordance with the authority's statement of principles.
55. The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
56. The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
57. Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
58. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
59. The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:
- Add, remove or amend a licence condition imposed by the licensing authority;
  - Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - Suspend the premises licence for a period not exceeding three months; and
  - Revoke the premises licence.
60. In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.



61. In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
62. Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
  - The licence holder;
  - The applicant for review (if any);
  - The commission;
  - Any person who made representations;
  - The chief officer of police or chief constable; and
  - Her Majesty's Commissioners for Revenue and Customs
63. Further information, including an outline of the process that is followed at review hearings, can be found in the separate document "Guidance to the Hearing of Representations and Licence Reviews".

#### **Exchange of Information**

64. Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the gambling commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
65. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the gambling commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
66. Should any protocols be established as regards information exchange with other bodies then they will be made available.

<b>SECTION FIVE – OTHER POLICIES, OBJECTIVES AND GUIDANCE</b>
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67. This Policy is intended to complement the broad range of other relevant council and government policies, strategies, responsibilities, and guidance set out here. This Policy will also be checked for consistency with all current policies, objectives and guidance on an annual basis.

**Other statutory requirements**

68. The Council has other general statutory requirements relating to crime and disorder, anti-social behaviour, health, nuisance, human rights, disability discrimination and race relations, all of which complement the Gambling Act 2005. These are briefly outlined below.
69. Under Section 17 of the **Crime and Disorder Act 1998** an over-riding duty is placed upon the Council and the Police to minimise crime and disorder. The council as licensing authority must consider how the exercise of its functions impacts upon and contributes toward the prevention of crime and disorder within its area.
70. The **Anti-Social Behaviour Act 2003**, as amended by the Criminal Justice Act 2008, identifies types of anti-social behaviour that affect community life and provides local authorities, particularly environmental health officers, and the police with the tools to deal with these under sections 40 and 41.
71. **The Health Act 2006** introduced the smokefree workplaces law which was applied to all enclosed public places, workplaces and public and work vehicles on 1 July 2007. The law is enforced by local authorities.
72. The **Clean Neighbourhoods and Environment Act 2005** adds additional powers for dealing with noise emitted from licensed premises.
73. The **Human Rights Act 1998** incorporates the European Convention on Human Rights, making it unlawful for a local authority to act in any way that is incompatible with a convention right. The council will have particular regard to the relevant provisions of the European Convention of Human Rights –
- **Article 1 of the first protocol that every person is entitled to the peaceful enjoyment of his possessions, including for example the possession of a licence;**
  - **Article 6 that in 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; and**
  - **Article 8 that everyone has the right to respect for his home and private life.**

74. The **Disability Discrimination Act 1995** introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, including licensees:
- **Since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability;**
  - **Since October 1999 reasonable adjustments must be made for disabled people, such as providing extra help or making changes to the way they provide their services; and**
  - **Since 2004 reasonable adjustments must be made to the physical features of their premises to overcome physical barriers to access.**
75. Additionally, the **Disability Discrimination Act 2005** came into effect in December 2005. It placed a duty on public bodies to actively promote disability equality.
76. While access for people with disabilities is not one of the three licensing objectives, this council expects that responsible licensees will comply with the requirements of the Disability Discrimination Act 1995. As such the licensing service will work closely with the Southwark Disablement Association (SDA) to ensure that disabled people are not treated less favourably than other people for a reason related to their disability. As part of this arrangement this authority will inform the SDA of new licence applications and will support the SDA and licensees in improving access to services. The SDA can provide advice to any licensee on reasonable adjustments – contact details are provided in section 12 of this policy. Alternatively, information provided on the web site [www.directenquiries.com](http://www.directenquiries.com) by the nationwide access register in conjunction with RADAR (the Royal Association of Disability and Rehabilitation) may be helpful.
77. The **Race Relations Act 1976**, as amended by the **Race Relations (Amendment) Act 2000**, places a legal obligation on public authorities 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.
78. This council recognises Southwark's diversity as one of its strengths and is committed to creating a more inclusive community. The council will aim to ensure that nothing within this Statement of Gambling Licensing Policy nor its associated practices discriminates against any group within the community and will pursue any opportunity to promote equality of opportunity and good community relations. To this end the council will undertake equalities impact assessments of the policy at regular intervals to identify the effects the policy may have had for different

groups and take appropriate action to prevent direct and indirect discrimination which may have been the result of the policy statement.

### **Other strategies and policies**

79. The council will look to secure the proper integration of this policy with other council and government policies, strategies, responsibilities, and guidance documents issued.
80. In this context this policy is informed by the following strategies and policies.
81. All enforcement actions taken by the licensing service are governed by the council's **enforcement policy**, which has been drafted with full reference to the **enforcement concordat** and the provisions of the BERR (now BIS) Statutory Code of Practice for Regulators, the **Police and Criminal Evidence Act 1984 (PACE)** and the **Regulation of Investigatory Powers Act 2000 (RIPA)**.
82. Through the licensing service's links with the **Safer Southwark Partnership**, a statutory partnership between the council, police and other local agencies who work together to reduce crime and disorder in the borough, we will pursue measures in relation to the Southwark **Crime and Disorder Reduction Strategy**, which concentrates on balancing short-term law enforcement action with longer-term crime prevention, and also the Southwark **Community Strategy**. The maintenance of a successful partnership working approach between the licensing authority and the police is crucial.
83. Southwark's local **Alcohol Harm Reduction Strategy**, prepared in response to the **National Alcohol Harm Reduction Strategy ("Safe. Sensible. Social. The next steps in the National Alcohol Strategy" (June 2007) )** explores the relationships between alcohol and crime alongside health impacts and also Southwark's local **Crime and Drugs Strategy** prepared in response to the **National Substance Misuse Strategy**. The licensing service is positioned within the Community Safety & Enforcement Division where it enjoys good links with other internal and external service areas including the Southwark Drugs and Alcohol Action Team and the Police aimed at building initiatives to tackle the issues of alcohol harm reduction and drugs misuse.

### **Planning**

84. The gambling commission guidance to licensing authorities states at section 7.59 "In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal."

85. This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the guidance at section 7.66 “When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

### **Duplication with other regimes**

86. This authority will seek, therefore, to avoid any duplication with other statutory / regulatory systems where possible, including planning.
87. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should a situation arise.
88. When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.
89. Thereby, while the licensing authority is conscious that there is no legal basis for a licensing authority to refuse a licence application solely because it does not have planning permission, it would not be consistent for the authority to give a licence for an activity when it has refused planning permission for the same activity to take place. In such cases the council would expect the applicant to address the reasons why planning permission had not been granted and provide compelling reasons as to why licensing consent should be. Even so, there may be circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes which carries different hours to the licensing hours. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
90. Borough-wide and area based planning guidance exists through the **Southwark Plan** and supplementary planning guidance. Where relevant representations are made on applications, the licensing authority will have regard to the appropriate relevant guidance.

91. The council is also aware of the Mayor of London's best practice guidance on "**Managing the Night Time Economy**" and will have regard to its contents. The Southwark Violent Crime Strategy, to be published in the Autumn 2010, will make specific recommendation concerning the night tie economy for the borough.

## SECTION SIX – PREMISES LICENCES

92. This section considers the licensing objectives and some of the matters that this licensing authority may consider when determining applications for premises licences under the Act. It also considers this authorities approach to the setting of conditions on premises licences. This section should be read in conjunction with the separate “Guidance to Premises Licences” issued by this council.
93. When considering matters in this section, the authority will have regard to any guidance or codes of practice issued by the Secretary of State and / or the gambling commission which may relate to a specific premises or category of premises.
94. In the interests of good practice, this licensing authority will expect applicants to offer their own measures to meet the licensing objectives based on a risk-assessment approach. However, advice may be obtained from any of the responsible bodies when preparing a licence application.
95. This section sets out some of the expectations of the authority and the responsible bodies.
96. The authority will, however, always treat each case on its own individual merits.

### **General principles**

97. Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
98. This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
  - In accordance with any relevant code of practice issued by the gambling commission;
  - In accordance with any relevant guidance issued by the gambling commission; and
  - Reasonably consistent with the licensing objectives and in accordance with the authority’s statement of licensing policy.

99. It is appreciated that as per the gambling commission's guidance to licensing authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any "no casino" resolution – see section on casinos (page 40) and also that unmet demand is not a criterion for a licensing authority.

### **Definition of "premises"**

100. In the Act, "premises" is defined as "any place". Section 152 prevents more than one premises licence applying to any place, but a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate standards are in place. However, licensing authorities should pay particular attention if there are issues about subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
101. The gambling commission states in the third edition of its guidance to licensing authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example 32 High Street. But, that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured separately. Whether different parts of a building can be properly regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can be properly regarded as different premises.
102. This licensing authority takes particular note of the gambling commission's guidance to licensing authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating;



- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit; and
- Customers should be able to participate in the activity names on the premises licence.

103. The guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

#### **Premises “ready for gambling”**

104. The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

105. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement (page 31) should be made instead.

106. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling; and
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

107. Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

108. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59 – 7.66 of the Guidance.

### **Provisional statements**

109. Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
110. S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- Expects to be constructed;
  - Expects to be altered; or
  - Expects to acquire a right to occupy.
111. The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
112. In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the gambling commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which the provisional application is made.
113. The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- They concern matters which could not have been addressed at the provisional statement stage, or
  - They reflect a change in the applicant's circumstances
114. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- Which could not have been raised by objectors at the provisional statement stage;
  - Which in the authority's opinion reflect a change in the operator's circumstances; or
  - Where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial

change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

### **The Licensing Objectives**

115. Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the gambling commission's guidance to local authorities and some comments are made below.

#### **Objective 1 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

116. This licensing authority is aware that the gambling commission takes a leading role in preventing gambling from being a source of crime. The gambling commission's guidance does, however, envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be necessary, such as the provision of door supervisors. In doing so, this licensing authority would note that it is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

117. Thereby, where representations are received to premises licence applications under the crime and disorder objective, this authority will give appropriate consideration to the location of the premises (see separate section below) and also to issues such as:

- The configuration, design and layout of the premises, paying particular attention to steps taken to "design out" crime;
- Security arrangements within the premises, including whether CCTV is installed and, if so, the standard of the CCTV and the positioning of cash registers;
- Training provided to staff around crime prevention measures
- The level of staffing provided at the premises, including whether door supervisors are employed;
- The arrangements in place to conduct age verification checks
- Steps taken to redress the recurrence of any historical crime and disorder issues; and
- The likelihood of any violence, public disorder or policing problems if the licence is granted.

118. The above list is not exhaustive.

119. Where it is considered necessary for the promotion of the crime and disorder objective, this authority will impose appropriate conditions.

**Objective 2 - Ensuring that gambling is conducted in a fair and open way**

120. This licensing authority has noted that the gambling commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

**Objective 3 - Protecting children and other vulnerable persons from being harmed or exploited by gambling**

121. This licensing authority has noted the gambling commission guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This licensing authority will therefore consider, as suggested in the gambling commission guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

122. This authority is aware that the gambling commission's general licence conditions and associated codes of practice under the Gambling Act 2005 (October 2008) include requirements made under operating licences that licensees must have and put into effect social responsibility policies and procedures designed to prevent underage gambling and monitor the effectiveness of these.

123. In order that this authority and the other responsible authorities are able to make a proper informed judgement as to the effectiveness of these policies and procedures, this authority asks that copies of the relevant documentation are submitted to the appropriate authorities for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits.

124. Where concerns are raised through the representation system then consideration will be given to whether additional relevant conditions are necessary.

**a) Preventing children from taking part in gambling**

125. In particular it is noted that while under the act children (defined in the act as under 16s) and young persons (16 – 17s) may take part in private and non-commercial betting and gaming the act contains the following restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place:

- Casinos cannot admit anyone under 18 and regional casinos will not be allowed to permit under 18s into the gambling area;
- Betting shops cannot admit anyone under 18;
- Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines;
- Adult entertainment centres cannot admit those under 18;

- Family entertainment centres and premises with liquor licences (eg pubs) can admit under 18s, but they must not play category C machines which are restricted to those over 18;
- Clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines;
- Horse and dog tracks can admit under 18s, and they may have access to gambling areas on race days only. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

126. Accordingly, this authority will wish to ensure that these restrictions are complied with.

127. This licensing authority will expect applicants to offer their own measures to achieve the licensing objective, however, there are a range of measures and controls that this authority and the other responsible authorities would recommend that consideration is given to where appropriate:

- The use of proof of age schemes;
- The installation of CCTV systems with the maintenance of a 31 day library of recordings;
- The supervision of entrances to the premises and / or machine areas;
- The physical separation of areas;
- Full consideration as to the location of entrances;
- The provision of suitable notices / signage; and
- Setting of specific opening hours

128. This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

129. As assistance to prospective licence holders the minimum expectations of this authority and the responsible bodies in relation to proof of age are given in table 2 below with issues shown as being, in our view, either essential or desirable.

**Table 2**

Essential	That notices shall be displayed informing customers and staff that under 18s will not be admitted to the premises or will not be permitted to take part in gambling activities (as applicable) and that age identification will be required
Essential	That a proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to

Desirable	<p>staff to be under the age of 18 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.</p> <p>That a “Challenge 25” or “Think 25” proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff to be under the age of 25 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. “Think 25” or “Challenge 25” notices shall be displayed informing customers and staff that admission to the premises will not be given to anyone appearing to be under 25 unless they can prove they are 18 or over. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.</p>
Essential	<p>That all staff shall be trained in the premises proof of age compliance scheme and records of such training shall be retained on the premises and made available for inspection by authorised officers.</p>
Essential	<p>That an incident log shall be maintained and details of all age related refusals recorded. This book shall be reviewed monthly by the nominated responsible member of staff and any actions taken recorded in the book and signed off by that member of staff. This log shall be retained on the premises and made available for inspection by authorised officers.</p>
Desirable	<p>That, if a CCTV recording system is installed inside the premises, it shall be so arranged as to monitor each entrance and exit and the gaming areas. A library of recordings taken by the system shall be maintained for 31 days and made available to authorised officers upon request.</p>

130. This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance; and
- Only adults are admitted to the area where the machines are located; and

- Access to the area where machines are located is supervised at all times, either by one or more persons whose responsibilities include ensuring that under 18s do not enter the area or by CCTV observed by one or more persons whose responsibilities include ensuring that under 18s do not enter the area; or
- The areas where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- A notice stating that no person under the age of 18 is permitted to enter the area must be displayed in a prominent place at the entrance to the area.

131. These considerations, will apply to premises including buildings where multiple premises licences are applicable,

**b) Restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children**

132. The Gambling Act 2005 removed virtually all of the existing statutory restrictions on the advertising of lawful gambling conducted in Great Britain. Responsibility for the advertising by gambling operators will be shared by the Secretary of State, the commission, and the advertising regulatory bodies. We note, however, that the commission's codes of practice require all advertising of gambling products to be undertaken in a social responsible manner consistent with the advertising codes of practice which apply to the form and media in which they advertise their gambling services. This authority understands that the following general principles apply:

- Not to encourage irresponsible or excessive gambling;
- Not to seek to harm or exploit children, the young, or other vulnerable persons;
- Not to direct advertisements at those under 18; and
- Only to feature in their advertisements people who are, and seem to be, over 25

133. This authority may accept that further conditions on this matter should not normally be necessary, but all issues of non-compliance with the code will be rigorously investigated and reported to the relevant authorities.

**c) Protection of vulnerable people**

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

135. This authority considers that for the purposes of protecting vulnerable people it is important that each licensee should recognise their social responsibility.
136. This authority notes that the commission's codes of practice place general requirements on operators to put into effect policies and procedures which promote socially responsible gambling. In particular, the codes of practice place responsibilities upon licensees to make information available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling. The information is required to cover:
- Any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend;
  - Timers or other forms of reminders or reality checks where available;
  - Self-exclusion options; and
  - Information about the help of further help or advice.
137. Again, the codes of practice do not require an operator to inform the licensing authority and other responsible authorities of these policies and procedures when applying for the premises licence.
138. However, in order that this authority and the other responsible authorities are able to make a proper informed judgement as to the suitability of these policies and procedures, this authority asks that copies of the documentation be submitted to the appropriate authorities for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits. Views may additionally be sought from the Southwark Safeguarding Adults Partnership. If concerns are raised under the representations system then consideration will be given to additional relevant conditions.
139. This authority and the other responsible authorities would expect that:
- Self-exclusion schemes introduced are clearly publicised on licensed premises; and
  - That information is made publically available about organisations that can provide advice and support, both in relation to gambling itself and to debt, for example for gambling addiction gamcare, gamblers anonymous, and the gordon house association; and for debt counselling Blackfriars advice service and national debtline.
140. While the value of self-exclusion schemes is recognised the authority would emphasise that these should not relieve responsibility from staff to be alert to any customers who are exhibiting signs of 'problem gambling' and providing support where possible.



## Location

141. This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the gambling commission's guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
142. In pursuit of these objectives, when determining applications for premises licences, this authority will have regard to the location of the premises. The authority will give special consideration in relation to the proximity of premises to
- **Local schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families;**
  - **Places where vulnerable people are housed or treated, including clinics, recovery centres, outpatients clinics and homes;**
  - **Residential areas where there is a high concentration of children and young people or vulnerable people;**
  - **Areas where there is a high level of organised crime;**
  - **Places of worship, community facilities or public buildings;**  
and
  - **Areas where there is considered to be an over concentration of similar existing licensed operation**
143. This list is not exhaustive.
144. It should be noted, however, that this policy does not preclude any application being made and each application will be decided upon its own merits, with the onus being on the applicant showing how potential concerns can be overcome.
145. Although this authority recognises that nuisance is not one of the three stated licensing objectives and that the guidance to the Act states that disorder is intended to mean activity that is more serious and disruptive than nuisance, this authority will receive information from the Council's environmental protection team on nuisance issues as being relevant to matters of location of premises.

## Conditions generally

146. Any conditions attached to licences will be proportionate and will be:
- Relevant to the need to make the proposed building suitable as a gambling facility;
  - Directly related to the premises and the type of licence applied for;
  - Fairly and reasonably related to the scale and type of premises: and

- Reasonable in all other respects
147. Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under the licensing objectives and some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.
148. This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the gambling commission's guidance.
149. Where this authority proposes to attach a condition to a licence, other than either a mandatory or default condition, a hearing will be held unless all parties concerned consider it unnecessary.
150. This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track. As per the gambling commission's guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from the gambling areas where they are not permitted to enter.
151. It is noted that there are conditions which the licensing authority cannot attach to premises licences. These are:
- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
  - Conditions relating to gaming machine categories, numbers, or method of operation;
  - Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
  - Conditions in relation to stakes, fees, winning or prizes

### **Door supervisors**

152. The gambling commission advises in its guidance to licensing authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to

the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

153. Where it is decided that the supervision of entrances / machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the guidance, part 33).

### **Casinos**

154. This licensing authority has not passed a 'no casino' resolution under section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be taken by the full council assembly.

### **Adult gaming centres**

155. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The authority notes the gambling commission's access provisions for adult gaming centres state that 'no customer must be able to access the premises directly from any other licensed gambling premises'. The authority will expect the applicant to satisfy it that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises. This licensing authority may consider measures to meet the licensing objectives.

### **Bingo premises**

156. This licensing authority notes that the gambling commission's guidance states:

*"18.4 – Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.*

*This authority also notes the guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machines entitlement for that premises would be exceeded.*

*18.7 Children and young people are allowed into bingo premises, however, they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.*

157. This authority notes the gambling commission's access provisions for bingo premises state that:

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track'

### **Betting premises**

158. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure, for example, that under 18 year olds do not have access to the premises (see information provided under section relating to the third licensing objective – 125 onward).

159. This licensing authority will, as per the gambling commission's guidance, take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number / nature / circumstances of betting machines an operator wants to offer.

160. The authority notes that the gambling commission's access provisions for betting premises state:

- Access must be from a street (as per paragraph 7.23 guidance to licensing authorities) or from another premises with a betting premises licence
- There may be no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect this means that there cannot be an entrance to a betting shop from a shop of any kind and a betting shop cannot be situated at the back of a café for instance – the whole area would have to be licensed.

### **(Licensed) family entertainment centres**

161. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas (see information provided under section relating to the third licensing objective – 125 onward).

162. Given that this category of premises is one to which children may properly have access, operators should also consider measures / training for staff on how to deal with suspected truant school children upon the premises.

163. This licensing authority will, as per the gambling commission's guidance, refer to the commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences.

### **Travelling fairs**

164. This authority will firstly consider whether the application falls within the statutory definition of a travelling fair. This authority will then decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available, whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

165. It is noted that the 27-day statutory maximum for the land being used as a fair, applies on a calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

**SECTION SEVEN – PERMITS / TEMPORARY & OCCASIONAL USE  
NOTICES**
**Unlicensed family entertainment centre gaming machine permits  
(statement of principles on permits – schedule 10 paragraph 7)**

166. Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (section 238).
167. The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and / or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the commission under section 25. The gambling commission's guidance to licensing authorities also states "in their three year licensing policy statement, licensing authorities may include a statement of principles they propose to apply when exercising their functions in considering applications for permits ..., licensing authorities will want to give weight to child protection issues." (24.6).
168. Guidance also states "... An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application."
169. This licensing authority has prepared a statement of principles which is that each applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits.
170. Copies of these policies and procedures must be submitted with any application for a permit. Applicants are advised that the minimum expectations of the local safeguarding children board are that policies and procedures will demonstrate:
- **How employees or contracted agencies will be made aware of the company's / organisation's policy / statement on keeping children safe from harm;**
  - **That recruitment processes for staff who may have to deal direct with children under the age of 18 seek to ensure, as best the company / organisation can, that the appointed applicant has not been known to have harmed children;**

- **That there will be clear expectations on staff with regard to their personal conduct in direct relations with children under 18 and guidance on what is appropriate in dealing with specific situations which may arise;**
- **That there are systems in place and that staff are aware of them for dealing with possible abuse or violence to children from other users of the licensed facility;**
- **That there are clear and accessible complaints systems for children to report if they have been harmed and that there are clear whistle-blowing procedures for staff who may have concerns about the welfare of children on the premises; and**
- **That all duty managers or staff in charge of the premises are aware of how to refer any concerns about the welfare of children to the local police, education authority or social services as necessary.**

171. Policies and procedures may also include appropriate measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

172. This licensing authority will also expect, as per gambling commission guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that staff are trained to have a full understating of the maximum stakes and prizes; and that the applicant has no relevant convictions (as set out in schedule 7 of the Act).

**(Alcohol) Licensed premises gaming machine permits – (schedule 13 para 4(1))**

173. There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and / or D. In such cases the premises licence holder under the Licensing Act 2003 merely needs to notify the licensing authority and pay the relevant fee.

174. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises

### Permit for 3 or more machines

175. If a premises wishes to have more than 2 machines, then an application must be made for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the gambling commission issued under section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
176. This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.
177. Measures which will satisfy the authority may include
- **That adult machines are located within a bar or segregated area to which under 18s are not admitted; and**
  - **That procedures are in place to ensure that under 18s are not admitted (see advice in Part E of this policy); or**
  - **That adult machines are situated in full sight of the bar staff, or other staff who will monitor that the machines are not being used by those under 18; and**
  - **That procedures are in place that will ensure that under 18s are not able to play upon the machines (see advice in Part E of this policy).**
  - **Additionally, notices and signage may also be of help in both circumstances**
178. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as gamcare (see paragraph 141 above).
179. It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.
180. It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
181. It should also be noted that the holder of a permit must comply with any code of practice issued by the gambling commission about the location and operation of the machine.



### **Prize gaming permits**

182. The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

183. This licensing authority has prepared a statement of principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- **That they understand the limits to stakes and prizes that are set out in regulations;**
- **That the gaming offered is within the law; and**
- **Clear policies that outline the steps to be taken to protect children from harm.**

184. In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any gambling commission guidance (Gambling Act 2005, schedule 14 paragraph 8(3)).

185. It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- **The limits on participation fees, as set out in regulations, must be complied with;**
- **All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;**
- **The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and**
- **Participation in the gaming must not entitle the player to take part in any other gambling.**

### **Club gaming and club machines permits**

186. Members clubs and miners’ welfare Institutes (but not commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit. The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.

187. Members’ clubs and miner’s welfare institutes – and also commercial clubs – may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines (3 machines of

categories B, C or D). NB commercial clubs may not site category B3A gaming machines offering lottery games in their club.

188. Gambling commission guidance for local authorities states: “members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of royal british legion and clubs with political affiliations.”
189. The commission’s guidance also notes that “licensing authorities may only refuse an application on grounds that:
- **The applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;**
  - **The applicant’s premises are used wholly or mainly by children and/or young persons;**
  - **An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;**
  - **A permit held by the applicant has been cancelled in the previous ten years; or**
  - **An objection has been lodged by the commission or the police**
190. There is also a ‘fast-track’ procedure available for premises which hold a club premises certificate under the Licensing Act 2003 (schedule 12 paragraph 10). As the gambling commission’s guidance for local authorities states: “Under the fast-track procedure there is no opportunity for objections to be made by the commission or the police, and the ground upon which an authority can refuse a permit are reduced” and “The grounds on which an application under the process may be refused are:
- That the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.”
191. There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **Temporary use notices**

192. Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the gambling commission, would include hotels, conference centres and sporting venues.
193. The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
194. The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
195. There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in part 8 of the Act is discussed in part 7 of the gambling commission guidance to licensing authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
196. In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
197. This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the gambling commission's guidance to licensing authorities.

### **Occasional use notices**

198. The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## SECTION EIGHT – SMALL SOCIETY LOTTERIES

199. Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The licensing authority will register and administer small societies lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories.
- Licensed lotteries (requiring an operating licence from the gambling commission); and
  - Exempt lotteries (including small society lotteries registered by the licensing authority)
200. Exempt lotteries are lotteries permitted to run without a licence from the gambling commission and these are:
- Small society lotteries;
  - Incidental non-commercial lotteries;
  - Private lotteries;
  - Private society lotteries;
  - Work lotteries;
  - Residents' lotteries;
  - Customer lotteries;
201. Societies may organise lotteries if they are licensed by the gambling commission or fall within the exempt category. The licensing authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. Guidance notes on small society lotteries, limits placed on them and information setting out financial limits will be made available on the council's web-site or by contacting the licensing service (see contact details at the end of this document).
202. Applicants for registration of a small society lottery must apply to the licensing authority in the area in which their principal office is located. Where the licensing authority believes that the society's principal office is situated in another area, it will inform the society as soon as possible and where possible, will inform the other licensing authority.
203. Lotteries will be regulated through a licensing and registration scheme; conditions imposed on licences by the gambling commission; codes of practice and any guidance issued by the gambling commission. In exercising its functions with regard to small society and exempt lotteries, the licensing authority will have due regard to the gambling commission's guidance.
204. The licensing authority will keep a public register of all applications and will provide information to the gambling commission on all lotteries

registered by the licensing authority. As soon as the entry on the register is completed, the licensing authority will notify the applicant of his registration. In addition, the licensing authority will make available for inspection by the public the financial statements or returns submitted by societies in the proceeding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the licensing authority will notify the gambling commission in writing, copying this to the society concerned. The licensing authority will accept return information either manually but preferably electronically by emailing [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

205. The licensing authority will refuse applications for registration if in the previous five years, either an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant has been refused. Where the licensing authority is uncertain as to whether or not an application has been refused, it will contact the gambling commission to seek advice.
206. The licensing authority may refuse an application for registration if in their opinion:
- The applicant is not a commercial society;
  - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
  - Information provided in or with the application for registration is false or misleading.
207. The licensing authority will ask applicants to set out the purposes for which the society is established and will ask the society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The licensing authority may also seek further information from the society.
208. Where the licensing authority intends to refuse registration of a society, it will give the society an opportunity to make representations and will inform the society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
209. The licensing authority may revoke the registered status of a society if it thinks that it would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocation will take place unless the society has been given the opportunity to make representations. The licensing authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
210. Where a society employs an external lottery manager, it will need to satisfy itself that the manager hold an operator's licence issued by the

gambling commission, and the licensing authority will expect this to be verified by the society.

<b>SECTION NINE – ENFORCEMENT</b>
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211. Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
212. This licensing authority's principles are that it will be guided by the gambling commission's guidance to licensing authorities and will endeavour to be:
- **Proportionate:** Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised;
  - **Accountable:** Regulators must be able to justify decisions and be subject to public scrutiny;
  - **Consistent:** Rules and standards must be joined up and implemented fairly;
  - **Transparent:** Regulators should be open, and keep regulations simple and user friendly; and
  - **Targeted:** Regulation should be focused on the problem, and minimise side effects
213. These principles are consistent with principles contained within the council's enforcement policy and within the better regulation unit's Enforcement Concordat, to which this council is a signatory. All enforcement actions will be in accordance with this enforcement policy.
214. In order to ensure that this authorities enforcement activities are targeted and make the best use of resources, this licensing authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives;
  - Relevant codes of practice;
  - Guidance issued by the gambling commission, in particular Part 36; and
  - The principles set out in this statement of licensing policy.
215. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The gambling commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

216. This licensing authority also keeps itself informed of developments as regards the work of the better regulation executive in its consideration of the regulatory functions of the local authorities.
217. Bearing in mind the principle of transparency, this licensing authority's enforcement / compliance protocols / written agreements are available upon request to the licensing service (*see contact details provided at the end of this document*). Our risk methodology is also available upon request.
218. It remains the over-riding intention, however, of the licensing authority, the police, and the other enforcement agents to work together with responsible licence holders and operators to help them run a successful business that plays a positive role within the local community. Where operators are acting responsibly we will look to provide support, advice and education and we will look to give early warning of any concerns identified at any premises. However, the authorities will use the range of enforcement powers made available under the Act where individuals act with disregard to their responsibilities.



<b>SECTION TEN – CONTACT DETAILS</b>
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**Southwark Licensing Service**

You can contact the Licensing Service in a number of ways

By post or in person by appointment during office hours

***Southwark Licensing Team***

C/O Health Safety & Licensing Unit  
 Community Safety Enforcement Business Unit  
 The Chaplin Centre  
 Thurlow Street  
 London, SE17 2DG

By telephone: (Via the Customer Contact Centre 24/7) 020 7525 5000

By e-mail: [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

By visiting our web site at [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing)

**Other responsible authorities*****The Gambling Commission***

Victoria Square House  
 Victoria Square  
 Birmingham, B2 4BP

***Commissioner of Police for the Metropolis***

The Police Licensing Office  
 Walworth Road Police Station  
 12 – 28 Manor Place  
 London  
 SE17 3RL  
 Tel: 020 7232 6210

***The London Fire and Emergency Planning Authority***

Fire Safety Regulation  
 South East Area 3  
 169 Union Street  
 London, SE1 0LL  
 Tel: 020 8555 1200

***The Council's Building & Development Control Services (including Planning)***

160 Tooley Street  
 London  
 SE1 2TZ  
 Tel: 020 7525 2000

***The Environmental Protection Team (dealing with nuisance issues)***

C/O Southwark Community Safety Enforcement Business Unit  
 The Chaplin Centre  
 Thurlow Street  
 London  
 SE17 2DG  
 Tel: 020 7525 2000

***The Local Safeguarding Children Board***

Southwark Safeguarding Children Board  
 PO Box 64529  
 4<sup>th</sup> Floor  
 160 Tooley Street  
 London  
 SE1 2TZ  
 Tel: 0207 525 3733  
 Fax: 0207 525 3236

***The Local Safeguarding Vulnerable Adults Board***

Safeguarding Adults Manager  
 Southwark Safeguarding Adults Partnership  
 160 Tooley Street  
 London, SE1 2TZ  
 Tel: 0207 525 3733  
 Fax: 0207 525 3236

***HM Customs & Revenue***

*Detail to be provided for final copy*

***Please note that in the case of applications made in respect of vessels a different set of responsible authorities apply. Please contact the Licensing Service for information.***

**OTHER AGENCIES*****Southwark Disablement Association***

Patrick Horan  
 Access Officer & Chair  
 Southwark Disablement Association  
 2 Bradenham Close  
 London  
 SE17 2QB  
 Tel: 020 7701 1391

## **Appendix A – Consultation**

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The chief officer of police
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005

In preparing this Statement of Gambling Licensing Policy this authority

- Placed public notices in the local media and on the council's web site advertising the opportunity to comment on the draft policy;
- Wrote directly to all known potential licence applicants;
- Wrote directly to all known tenants and residents organisations;
- Wrote directly to all known gambling business representatives;
- Wrote directly to all known community representative and other interest groups;
- Wrote directly to all ward councillors; and
- Provided information to each community council.

Detail of the written submissions received and analysis of those submissions can be obtained from the licensing service.

## APPENDIX 2

<b>Southwark Statement of Gambling Licence Policy – 2009 Three Year revision</b>				
<b>Consultation Responses</b>				
<b>Name</b>	<b>Address</b>	<b>Section</b>	<b>Comment</b>	<b>Response</b>
Paul Compton, Police Licensing Officer for Southwark Borough on behalf of the Borough Commissioner	Licensing Office, Walworth Police Station, 12/28 Manor Place, Walworth London, SE17 3BB	General	The policy appears to adequately reflect recent changes and is appropriate for implementation on Southwark	Comments noted.
Debra Lawless, Southwark Environmental Protection Team (Responsible authority)	C/O Southwark Environmental Health & Trading Standards, The Chaplin Centre, Thurlow Street, London, SE17 2DG	General	Queries the fact that public nuisance is not included within the stated licensing objectives, when there are a number of potential relevant issues including matters of sound containment; lighting; nuisance from customers; and litter.	The matter is noted and the concern recognised, however, the licensing objectives are established by section 1 of the Gambling Act 2005. These are stated as (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime; (b) ensuring that gambling is conducted in a fair and open way; and (c) protecting children and other vulnerable people from being harmed or exploited by gambling.
Debra Lawless, Southwark Environmental Protection Team (Responsible authority)	C/O Southwark Environmental Health & Trading Standards, The Chaplin Centre, Thurlow Street, London, SE17 2DG	General	In view of the position as stated above, queries why environmental health are consulted.	Section 157 of the 2005 Act sets out the “responsible authorities” with regards to gambling premises licensing. The list of responsible authorities includes “an authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area which the premises are wholly or partly situated”. Within Southwark this responsibility falls to the Environmental

				Protection Team. Responsible authorities are statutory consultees within the gambling premises licence application process. The Gambling Commission's guidance to licensing authorities (3 <sup>rd</sup> edition May 2009) notes at section 8.5 that "the Act contains a similar list of responsible authorities to that contained in the Licensing Act 2003, despite the lack of corresponding licensing objective of public safety (and nuisance) ... The result the Act aims to achieve through the inclusion of a wide range of responsible authorities is one where all relevant regulatory bodies and organisations are made aware of applications for gambling premises licences or other permissions. In many instances comments that responsible authorities make are relevant to the licensing authority's determination".
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	General	Note that (the) consultation follows the model format circulated by LACORs and commend this as we believe that premises licence decisions should be administered consistently between local authorities.	Comment noted.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section three – Purpose and Scope of the Policy	The exercise of discretion – The exercise of a local authority's discretion is an essential part of regulation under the Act and the principles that are to be applied	Section 32 of part C of the draft policy statement includes full reference to section 153 of the Act, noting that "the licensing authority is aware that as per

<p>Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)</p>			<p>are to be viewed against the duty of the licensing authority under section 153 which is to "aim to permit the use of premises for gambling".</p>	<p>section 153 of the Act, in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it (a) in accordance with any relevant code of practice issued by the Gambling Commission; (b) in accordance with any relevant guidance issued by the Gambling Commission; (c) reasonably consistent with the licensing objectives; and (d) in accordance with the authority's statement of licensing policy."</p>
<p>Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)</p>	<p>Alders House 133 Aldersgate Street, London, EC1A 4JA</p>	<p>Section four – Administration, Exercise and Delegation of Function</p>	<p>Interested parties - It is noted that Gambling Commission Guidance states that "interested parties" includes trade associations and although BACTA is not itself an interested person under the terms of the Gambling Act 2005 it does represent, through it's members, parties who live sufficiently close to premises to be affected by activities being applied for.</p>	<p>This authority's approach to "interested parties" and "representations" is set out in part D of the draft policy statement. Section 45 notes that "interested parties" includes a person who (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; or (c) represents persons who satisfy (a) or (b). Section 47 notes that the authority will determine each issue of whether a person is an interested party on it's own merits and that Gambling Commission Guidance states that "has business interests" should be given the widest possible interpretation. Section 52 notes that a representation would only be relevant if it relates to one or more of the licensing objectives, or raises issues under the policy</p>

				statement, the Commission's codes or guidance.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section four – Administration, Exercise and Delegation of Function	Reviews of licensed premises – Licensing authorities are given the power to initiate a review of a premises licence. Such reviews should only result from a breach of the licence or a threat to the licensing objectives. Therefore if licence has been granted and the premises operated in accordance with the licence there would be no grounds to review a licence if additional guidance or regulations are issued. A licence should not be subject to retrospective application of guidance.	Section 63 of part D of the draft policy statement recognises that the authority can “initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate”. Section 10.5 of the Gambling Commission Guidance which states that a formal review would normally be at the end of a process of ensuring compliance by the operator is acknowledged. On this basis it is accepted that a licence would not normally be subject to retrospective review if additional guidance or regulations are issued but this authority would not wish to restrict its ability to act in unforeseen circumstances.
Sally Slade, LBS Food Safety & Trading Standards Unit Manager	The Chaplin Centre, Thurlow Street, London, SE17 2DG	Section four – Administration, Exercise and Delegation of Function	Raises the view that Trading Standards should be a responsible authority under the protection children from harm objective and should have enforcement powers. Also believes that the authority should be able to refuse applications on grounds of need.	The Act neither lists Trading Standards as one of the stated responsible authorities nor provides any enforcement powers to the service. This is one element where the Act differs from the 2003 Licensing Act. However, the good work established by the trading standards service in dealing with under-age sales generally has been recognised in preparation of this statement of policy and is reflected in the advice offered under prevention of under-age gambling. The trading standards service is also likely to be consulted in the event that

				enforcement activities around under-age gambling are considered.
John Emery, Safeguarding Adults Manager, Southwark Safeguarding Adults Partnership	160 Tooley Street, London, SE1	Section Six – Premises Licences	That the Partnership would wish to be recognised as the body competent to advise on issues concerning safeguarding vulnerable adults.	Noted in policy with arrangements made for the partnership to be notified of new and varied applications.
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section six – Premises Licences	Conditions must not duplicate protection which is already imposed by regulation from the Commission. Therefore before any condition is imposed there must be: <ul style="list-style-type: none"> <li>• identification of which of the licensing objectives is threatened;</li> <li>• actual evidence of such threat;</li> <li>• reasons why the proposed condition would be effective to address such threat; and</li> <li>• reasons why such threat is not already addressed by existing regulation in the form of operating licence conditions, premises licence mandatory conditions and Gambling Commission codes of practice.</li> </ul>	Section 112 of part E of the draft policy statement establishes that “this authority will seek to avoid any duplication with other statutory / regulatory systems where possible.” Section 144 notes that “any conditions attached to licences will be proportionate and will be (a) relevant to the need to make the proposed building suitable as a gambling facility; (b) directly related to the premises and the type of licence applied for; (c) fairly and reasonably related to the scale and type of premises; and (d) reasonable in all other respects.” Section 145 states that “decisions upon individual conditions will be made on a case by case basis.”
Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's	Alders House 133 Aldersgate Street, London, EC1A 4JA	Section six – Premises Licences	Protection of children and other vulnerable people / category D machines – BACTA fully supports the protection of children and the vulnerable. The Act contains specific offences under Parts 3 and 4 which include heavy fines and imprisonment should children and young	Comments noted. No part of the draft policy statement seeks to impose restrictions to the way in which category D machines are offered to children beyond parliamentary intention or process.



<p>amusement industry with 650+ members)</p>			<p>people be exposed to adult only environments. Parliament considered that such penalties would be effective to deter breaches of the Act. In particular the DCMS conducted a detailed review of evidence regarding the way in which Category D machines are offered to children and concluded that there was no evidence of harm. The Minister stated to Parliament that any change in the way in which Category D machines were offered would be based on evidence and discussed before Parliament. It would therefore be inappropriate for a licensing authority to impose restrictions that were contrary to Parliamentary intention or Parliamentary process.</p>	
<p>Leslie Macleod-Miller, Chief Executive of the British Amusement Catering Trades Association (BACTA) (Interested party representing Britain's amusement industry with 650+ members)</p>	<p>Alders House 133 Aldersgate Street, London, EC1A 4JA</p>	<p>Section six – Premises Licences</p>	<p>Definition of premises and primary purpose - We note that the Gambling Commission has revised its guidance on the primary activity and the definition of premises. In deciding whether to grant a premises licence, the local authority should be concerned that the application meets the requirements of the regulations. The Gambling Commission will ask an operator how he/she will be providing the gambling before granting the operating licence, e.g. they will ask how the bets will be taken and settled before granting a betting licence. Therefore a licensing authority can be satisfied that a gambling operator is able to provide the main gambling type. Premises is defined by the Act as 'any place'. Historically the concept</p>	<p>This licensing authority notes the new guidance provided by the Gambling Commission on primary activity; the definition of premises and split premises. The authority will be mindful of the Guidance in considering and determining all applications for gambling premises licences. All applications will be considered upon their own merits with all relevant matters taken into account.</p>

			<p>of a premises within a premises has operated without evidence of any difficulty, examples of a premises within a premises include piers, motorway service stations, etc. DCMS lawyers confirmed during the passage of the Bill that this concept of a premises within a premises would continue under the 2005 Act, subject, of course, to any conditions applicable to individual licences. It should be noted that Parliament provided that certain premises would permit direct access from areas licensed for family admission to those which are restricted to adults only. Of course the adult only areas are subject to conditions regarding protection of the three licensing objectives and there are severe penalties set out in Parts 3 and 4 of the Act for breach. The gaming machine industry has operated designated adult areas within family entertainment areas for over 10 years and on the basis of evidence Parliament has accepted that this model of direct access should be adopted specifically in relation to licensing FECs and regional casinos. Should there be evidence in the future that the licensing objectives are not upheld, the Secretary of State has the power to react through due Parliamentary process. While licensing authorities should take particular care in considering applications for multiple licenses under one premises, their concern should be to ensure that there are clear barriers and that the license conditions are properly observed. It is</p>	
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			clearly Parliamentary intention to permit adjacent adult and family areas referred to above, however, the direct internal access to such areas must be sufficiently clear to prevent "drift". It should be recalled that the demand test does not apply under the Act and therefore licensing authorities should not refuse an application based upon their view of the numbers of machines which will be permitted in a particular geographical area. The focus for attention should be to ensure that each licensed premises complies with licence conditions and codes of practice	
Malcolm Ward, Quality Assurance and Safeguarding Manager	Southwark Children's Services & safeguarding Children Board, PO Box 64529, 4 <sup>th</sup> Floor, 160 Tooley Street, London, SE1 2TZ	Section ten – Contact Details	Change of contact details noted	Noted with amendment made.

