

## **Small Casino Premises Licence**

1. On 15 May 2008 the Categories of Casino Regulations 2008 and the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 were approved. This specified which Licensing Authorities could issue Large and Small Casinos. Luton Borough Council was one of the authorities authorised to issue a Small Casino Premises Licence.
  2. On 26 February 2008 the Secretary of State issued the Code of Practice on Determinations relating to large and small Casinos. The Licensing Authority will comply with this Code which sets out:
    3. the procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005; and
    4. matters to which the Licensing Authority should have regard in making those determinations.
  5. Schedule 9 paragraph 5 to the Act states the following:
    - 1) This paragraph applies if a Licensing Authority determine under Paragraph 4 that
  6. they would grant a number of competing applications greater than the number which they can grant as a result of section 175 and the order under it.
    - 2) The Authority shall then determine which of those applications to grant under section 163(1)(a).
    - 3) For that purpose the Authority -
      - a) shall determine which of the competing applications would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area,
      - b) may enter into a written agreement with an applicant, whether as to the
  7. provision of services in respect of the Authority's area or otherwise,
  8. c) may determine to attach conditions under section 169 to any licence issued so as to give effect to an agreement entered into under paragraph (b), and
  9. d) may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a).
10. The Licensing Authority is aware that where it is permitted to grant a Premises Licence for a small casino, there are likely to be a number of operators who will want to operate the casino. In such situations, the Licensing Authority will stage a 'competition' under Schedule 9 of the Gambling Act 2005 and will run such a competition in line with The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and Code of Practice.
11. In accordance with the above regulations the Licensing Authority will publish an invitation calling for applications for the small Casino Premises Licence.
12. Where the Licensing Authority receives more than one application for a Casino Premises Licence at stage one then, if the authority determines that it would grant more than one licence, then subject to any appeals that may have been lodged at Stage one of the process being concluded then the licensing authority will:
  - a) make a 'provisional grant' to those applicants deemed appropriate for the grant of a small casino premises licence.
  - b) Implement Stage 2 of the 'small casino premises licence process in accordance with the DCMS Code of Practice issued by the Secretary of State.

- c) Invite those applicants issued with a 'provisional grant' at stage one of the process to participate in stage two of the small casino premises licence process.
13. Any 'Provisional Grant' issued to an applicant at Stage 1 of the 'small casino premises licence process', shall have no effect and shall not be used for the provision of casino gaming facilities upon the premises to which it relates. The 'Provisional Grant' merely confirms the Licensing Authority's determination, that the applicant satisfies the statutory requirements for the grant of a small casino premises licence; and afford the applicant the right to participate in Stage 2 of the 'small casino premises licence process' for Luton.
14. It may be the case that at Stage 1 of the process, only one application may be submitted to the Licensing Authority for a small casino premises licence, or it may be the case that after due consideration of all the applications at Stage 1, the Licensing Authority considers that only one applicant satisfies the statutory requirements, in respect of a premises licence. In that instance, the Licensing Authority will not implement Stage 2 of the 'small casino licensing process' and will, (subject to any and all appeals being concluded), grant a small casino premises licence to the 'only suitable applicant' determined under Stage 1 of the process.
15. If the Licensing Authority does not receive any applications for a small casino premises licence at Stage 1 of the 'small casino premises licence process', or should the Licensing Authority resolve to refuse the grant of any applications so made under Stage 1, then subject to any and all appeals being concluded:
- a) Stage 2 of the 'small casino premises licence process' will not be implemented, and,
  - b) The Licensing Authority may re-publish an invitation calling for applications for a 'small casino premises licence'.

### **General Principles**

16. The Licensing Authority recognises that applicants may either apply for a full Casino Premises Licence or alternatively a Provisional Statement. Applicants for full Premises Licences however must fulfil certain criteria in that they must:
- 1) hold or have applied for an Operating Licence; or
  - 2) have the right to occupy.
17. Unless otherwise specified, any reference to the application and procedures for a 'Small Casino Premises Licence' in the 'Small Casino Premises Licence' sections of this 'Statement of Principles' shall also include the application and procedures for a 'Provisional Statement' for a small casino premises licence.
18. In making any decision under stage one or stage two of the 'small casino premises licence process', the Licensing Authority will have due regard to this 'Statement of Principles', the Gambling Act 2005 and to any Codes of Practice, Regulations and Guidance which may be issued by:
- a) The Secretary of State.
  - b) The Department for Culture, Media and Sport, (DCMS).
  - c) The Gambling Commission.
19. In making any decision in respect of an application under stage one or stage two, the Licensing Authority shall not take into account whether or not an applicant has planning permission or building regulation approval and any decision shall not constrain any later decision by the Authority under the law relating to planning or building. The Licensing Authority does, however, strongly recommend that planning

permission is sought prior to submitting an application in order to avoid disappointment.

20. The Licensing Authority will not consider unmet demand when considering applications for casino premises licences and each application will be taken on its own merit.
21. Where applications are received for Casino Premises Licences, the Licensing Authority will expect the applicant to set out the ultimate benefit such a development will bring to the residents of the Borough and the contribution it will make to the well being of the area, e.g. local employment opportunities, etc.
22. In determining the principles the Licensing Authority intend to apply in making any determination for a Casino Premises Licence the Licensing Authority will pay specific regard to:
23. Any provision that is made for the protection of children and other vulnerable people from harm or exploitation arising from gambling, whether in the proposed casino or the wider community. The Licensing Authority does however recognise that persons who gamble beyond their means do not necessarily emanate from Casinos and could come from other betting premises and therefore is not the entire responsibility of Casinos.
24. Any provision that is made for preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
25. Any provision that is made for ensuring that gambling is conducted in a fair and open way.
26. Likely effects of an application on employment and regeneration;
27. Design and location of the proposed development;
28. Range and nature of non gambling facilities to be offered as part of the proposed development; and
29. Any financial and other contributions.
30. The Licensing Authority shall ensure that any pre-existing contract, arrangements or other relationship with a company or individual does not affect the procedure for assessing applications so as to make it unfair or perceived to be unfair to any applicant. The Licensing Authority shall therefore disregard any contract, arrangement or other relationship.
31. The Licensing Authority's decision will not be prejudged and where advice is sought this will be impartial advice.

### **Casino Application Stage 1**

32. The 'small casino premises licence process' will be started by the Licensing Authority publishing an invitation calling for applicants to submit an application for a small casino premises licence.
33. An application for a small casino premises licence may be made at any time, however the Licensing Authority will not consider any such application, until a formal

invitation to apply has been published and the appointed closing date for the submission of applications has passed. The appointed closing date shall be the final day of the three month period, duly advertised for Stage 1 applications.

34. The Licensing Authority will consider each application separately on its own merit with no reference being made to the other applications received.
35. The Licensing Authority will provide an application pack which will include a Statement of the procedure the Licensing Authority proposes to follow in assessing applications for Casino Premises Licences.
36. At Stage one of the 'small casino premises licence process' any additional information submitted by an applicant, above that required by the statutory process, will be disregarded and returned to the applicant in accordance with Gambling Act 2005 and its Regulations. Additional information may be submitted by an applicant participating in Stage 2 of the 'small casino premises licence process'.
37. The Licensing Authority recognises that each of the other competing applicants are considered as an 'interested party' and as a result may make representations. As such applicants are however reminded that an interested party is defined in section 6 of this Policy and each representation will be considered carefully to ensure they meet the principles set within the Gambling Policy. Representations will be treated in the same manner as for a Premises Licence and in accordance with section 5 of the policy as will the Principles for deciding on interested parties as detailed in section 6. It is recognised that the Licensing Authority's decision may be appealed against, in which case the Licensing Authority will not proceed to Stage two until all appeals have been concluded.
38. As this process may result in one or more provisional decisions to grant a Premises Licence, Stage two will be implemented.
39. Where a Provisional Statement application is successful, the Licensing Authority may limit the period of time for which the Statement will have effect. This period may be extended if the applicant so applies.

### **Casino Application Stage 2**

40. Stage two of the 'small casino premises licence process' cannot be commenced until Stage one has been completed and all applications determined, including the conclusion of any and all appeals.
41. At this Stage, the applicant will be required to state what ultimate benefit they can bring to the residents of Luton and how they can contribute to the well being of this area.
42. Where more than one application is received, the Licensing Authority will give due consideration to all applications and grant the available licence to the applicant that it considers in its opinion will result in the greatest benefit to the Borough of Luton. The competition will be judged on a wide range of issues, reflecting the issues that are important in the Borough of Luton, local concerns and local priorities.
43. Any determination made under stage two of the 'small casino premises licence process' will be judged on a wide range of criteria, which have been established by the Licensing Authority in consultation with the community of Luton, under the terms of this policy.

44. The Licensing Authority may during the second stage engage in discussions or negotiations with each second stage applicant with a view to the application being refined, expanded or altered so as to maximise the benefits to the area. Furthermore, the Licensing Authority may enter into a written agreement with an applicant and may take such agreement into account in determining which application would result in the greatest benefit to the Borough.
45. The Licensing Authority may attach conditions to the small casino premises licence to give effect to this agreement.

**Principles that apply in determining whether or not to grant a Casino Premises Licence**

46. The Licensing Authority has set out in Appendix ( ) the Competition Criteria and shall expect applicants to be fully conversed with this and the Council's policies and plans referred to therein.
47. With regard to the Local Authority's preferred location of the Casino, although applicants are able to submit plans for any site within the Borough the Local Authority is of the view that the preferred location should be in the urban area of the town of Luton which in its opinion would give the greatest benefit to the Borough. Applicants are encouraged to view the suggested Area of Search map which will be included in the application pack.
48. The applicant will be expected to provide:
49. A scaled plan of the premises indicating the location of all gaming machines, tables and Automated Telling Machines, bars and any non-gaming areas, together with an indication of any Notices/Rules that will be displayed in the gaming area.
50. Detailed numbers of all staff and Personal Licence Holders to be employed, together with a clear management structure.
51. Description of all activities carried on at the premises, including any proposals for the provision of late night refreshment and regulated entertainment. With regard to late night refreshment, the Licensing Authority would wish to have sight of the menu to ensure substantial refreshment and not just bar snacks will be provided.
52. An indication of the proposed location of the casino which should be sustainable and appropriate taking into account transport accessibility. Each application will be considered on its own merit assuming it meets this Council's competition criteria. Applicants must provide an indication of the availability of the site chosen.
53. Evidence of availability of funding and an estimated cost of the scheme.
54. Evidence of financial standing including submission of the applicant's last 3 year financial accounts, together with 2 financial references confirming that there is sufficient finance in place to ensure delivery of the project.
55. Two professional references to evidence that the applicant has proven ability and track record within the casino gambling sector.
56. Submission of a clear and detailed Business Plan.

57. A timescale for implementation and completion of the works setting out the various project stages of construction. This is to enable the Licensing Authority to be kept informed of when the project is likely to be completed and that the applicant is on target for final completion.
58. Evidence that there is ongoing consultation with statutory bodies and responsible authorities to ensure that all statutory regulations/legislation are in place.
59. Evidence of ongoing consultation with Bedfordshire Police and Responsible Authorities, to ensure compliance with any and all Statutory Regulations and Legislation during the construction of the development.
60. Evidence of a robust training plan in place for all employees. Training to cover all matters including awareness of the three Licensing Objectives, in particular the third Licensing Objective, knowledge of the gambling legislation, an awareness of problem gambling and all relevant internal procedures. In addition, applicants are required as part of their training plan to evidence customer service training and a knowledge of the local area.
61. The applicant will be expected to provide a Premises Log Book recording all training undertaken and this should be signed appropriately by the recipient to acknowledge training was given and understood. All training should be ongoing and based on a two-tier system. This system should demonstrate that staff are trained to their level of responsibility with senior staff trained to a higher level to ensure that they can effectively apply procedures and respond appropriately to any consumer requesting information, or assistance.
62. Evidence of Policies and Procedures in place to protect children and vulnerable persons from harm. The definition of 'vulnerable persons' can be found in the Glossary at the back of this Policy. In particular, the applicant should evidence clearly how they intend to promote the three Licensing Objectives.
63. A Policy detailing the mechanisms enabling the applicant to identify problem gamblers. This Policy should be incorporated within the Training Plan for all employees. The Policy is likely to set out how advice and support will be provided to those engaged in or affected by problem gambling.
64. A Policy detailing commitment to educating the community on gambling and problem gambling.
65. An Admissions Policy incorporating procedures to refuse entry to under age and drunk people, door supervisors and dress codes.
66. Confirmation that all gambling advice is available in a language other than English when a predetermined percentage of regular customers are identified as speaking that language.
67. A Social Responsibility Policy and casino rules for each gambling activity on offer. In addition, the applicant shall provide within the gaming area a specific practice area/room that enables any customer to learn how to gamble on the various activities offered without feeling intimidated or embarrassed. Where there is a practice room there shall be information provided that emphasises the importance of staying in control of their gambling, the steps they can take to achieve this and where to access help should they become concerned about their gambling. Where an area is provided, there should be leaflets and information clearly displayed setting out these points.

68. An indication on the plan where the separate non gambling refuge area of the premises is located. This area should provide a refuge from gambling and could be by way of a non threatening sound proofed quiet room that is always available for those concerned about their own or someone else's gambling. Within this room there should be installed the facility to telephone the national helpline, access an online counselling facility or contact a local face-to-face counselling service or Gamcare. Leaflets with contact addresses and telephone numbers should be prominently displayed within this room.
69. Evidence on how the premise is likely to benefit the Borough and local community. This is more detailed in Annexe ( ) but in summary may be by way of the following:
70. Proposals for contributions/investments in community schemes, such as initiatives which support and address issues within the night time economy.
71. Proposals setting out local economic benefit.
72. Impact assessment on existing facilities and amenity provision, together with an impact assessment on the surrounding residential areas/communities.
73. Impact assessment on the regeneration of the Borough of Luton, i.e. the socio economic development of the Borough and the development and diversification of its existing offering including improvements to the appearance, arts culture and general environment.
74. Consideration of the design and architecture of the premises to ensure that it complements, enhances and sympathises with the surrounding area.
75. Strategy on how the development will benefit: a) sustained employment initiatives providing job opportunities that are targeted at addressing people not engaged in employment within the Borough; and b) all year round art and recreational activities for local residents and visitors to the Borough.
76. Proposals to encourage education initiatives, particularly pre-employment skills training to local people.
77. Consideration on how to raise Luton's image by evidencing how to encourage the higher spending visitor to the Borough.
78. An ongoing Marketing Policy on how the development can promote the Borough of Luton.
79. An operator is not debarred from putting forward other benefits which the Licensing Authority will take into consideration and weigh to the extent it considers them relevant.
80. The Licensing Authority will expect applicants to present a detailed package that will bring maximum benefit to the Borough and it is expected that the applicant will have undergone detailed research and liaised with the relevant departments of the Council prior to submitting their application.
81. In assessing the impact of competing bids the applicant will be expected to have taken into account the additional criteria set out in Appendix ( ) to this Policy. In addition, the applicant will be expected to have understood and be fully conversant

with any Codes of Practice issued by the Gambling Commission or Department of Culture, Media and Sport and the policies and strategies stated in Appendix ( ).

82. In assessing applications made under the 'small casino premises licence process' the Licensing Authority may give consideration to the likelihood of a casino actually being developed and additional weight may be given to a proposal, which has already secured planning consent.

### **Process**

83. The 'small casino premises licence process' will follow the DCMS Code of Practice; however, the Code of Practice leaves individual authorities to determine the detail of their own procedure. Therefore, (as it is recognised that the Licensing Authority does not necessarily have all the relevant expertise), it may in certain circumstances seek advice on an applicant's proposal from officers in other relevant departments such as Planning, Highways, Finance, Regeneration, and Legal.
84. The Licensing Authority may also need to solicit independent expertise and advice from sources outside of the Council. For this purpose, the Licensing Authority intends to constitute a non-statutory panel to assist in the evaluation of the stage two application process. This panel shall be called the 'Advisory Panel'.
85. It is accepted that only the Licensing Authority will make the final decision on the successful applicant. The function of the Advisory Panel will be to evaluate the applications for the benefit of the Licensing Committee or Sub-Committee. The Advisory Panel will not be a decision-making body and while the Licensing Committee or Sub-Committee will take the Advisory Panel's evaluations into account, with regard to the 'small casino premises licence process', it is not bound to follow them.
86. Members of the Advisory Panel will comprise of carefully selected individuals who are not biased and whose personal interests would not compromise their independence. It will be for the Local Authority to determine the membership of the Advisory Panel.
87. A schedule detailing the Advisory Panel members and the Panel's terms of reference will be included in the Application Pack. The terms of reference will include further details of the functions of the Advisory Panel and the procedures of the evaluation process, in order to ensure fairness and transparency to all applicants.
88. To ensure that there is fairness and transparency; applicants will be asked if they wish to object to any Member of the Advisory Panel. Should an applicant wish to raise any objection to a Member of the Advisory Panel; then:
- a) A formal objection must be served upon the Local Authority within 10 working days of the applicant requesting an Application Pack.
  - b) The objection must clearly indicate the grounds upon which the objection is being made.
  - c) It will be for the Local Authority to determine the validity of any objection and to determine if any member of the Advisory Panel should be replaced on the basis of the objection(s) raised.
89. The strict time constraints (detailed at section a) above), are to ensure that in the event of an Advisory Panel Member being replaced as a result of an applicants' objection, all applicants can be given due notice and opportunity to object to any 'Replacement' Advisory Panel Member(s); and to prevent the potential frustration of the procedure in the latter stages of the application process. Objections raises 'out of



time' will only be considered if the applicant can satisfy the Local Authority, that the objection could not reasonably have been made within the stipulated period for objections.

90. It is important that the small casino premises licence application includes all documents and paperwork in support of the proposals, (hereinafter referred to as the 'bid documentation'). Once all the bid documentation has been submitted, the Advisory Panel will carry out a preliminary evaluation of each application. Following the preliminary evaluation, Officers of Luton Borough Council may liaise with applicants with a view to the application being refined, supplemented or altered so as to maximise the greatest benefit to the Luton area.
91. Once the bid documentation is finalised, the Advisory Panel will evaluate each bid and the bids will be scored within definitive bands determined by the Local Authority. Once assessed, the Advisory Panel's draft evaluation report on each application will be sent to the applicant, in order to enable the relevant applicant to identify and address any factual errors that may have occurred. Thereafter no additional information may be submitted by the applicant, but any agreed factual errors will be amended.
92. The unsuccessful applicant(s) will be informed of the result and reasons for rejection as soon as is reasonably practicable. It is noted that once a decision has been made there will be no right of an appeal, however the decision will not be confirmed until the ALCATEL process is complied with. (As per OJEU process)
93. The Licensing Authority will give equal time to all applications and will carefully scrutinise all proposals prior to making any decision. The process will be open, fair and transparent.
94. In accordance with the Code of Practice issued by the Secretary of State, the Licensing Authority shall ensure that there is a Register of Interest in place disclosing interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant. Any relevant informal discussions with applicants will be carefully recorded on the Register and that Register published on the Council's website, alternatively a hard copy will be made available upon request free of charge. However, applicants should note that this does not apply to any agreement between the Licensing Authority and applicant entered into during the second stage of the competition.
95. In addition, the Licensing Authority shall have a Protocol governing the storage of confidential information submitted during the second stage so as to maintain confidentiality. This Protocol is available on the Council's web-site or a hard copy is available from the Council's offices upon request.
96. The Licensing Authority's decision will be objective and based upon a points system with the applicant scoring the most points being selected as the successful operator. A copy of the points matrix will be provided with the application. This process is akin to a competitive tendering process and in licensing terms is a clear departure from the norm which is a quasi-judicial forum. The use of the matrix will assist the Licensing Authority in performing this challenging task, the casino applicants and the general public and other interested parties so that it can be seen and proved that the process will be run openly, fairly and transparently and meets the objective of determining which application should succeed on its own merit.

***Please add below any comments or indicate any areas that you consider may not be covered by this section of the draft policy.***

