

## **Extract from Gambling Commission Guidance Notes to Local Authorities – May 2009**

### **The process for issuing casino premises licences**

- 17.7** As a first step in licensing a casino, the licensing authority will have to invite applications for any casino premises licences that it may issue. Regulations set out how the process of inviting applications is to be done.<sup>33</sup>
- 17.8** It is possible that the number of applications that the relevant licensing authorities will receive will exceed the number of licences available. The Act lays down a framework for a two-stage process for considering applications in these circumstances.
- 17.9** As with all deliberations in premises licences, the authority should not confuse planning and building regulation considerations with the matter before it.
- 17.10** Licensing authorities whose areas have been chosen for the new casinos should, in their Licensing Authority Statement of Policy, set out the principles they intend to apply when determining the ‘winner’ of a premises licence competition.
- 17.11** Authorities should think carefully before entering into any agreements or arrangements with potential casino operators which might be perceived to affect their ability to exercise their stage two functions objectively and without having prejudged any of the issues. If any such agreements or arrangements are entered into, it will be important that authorities are able to demonstrate (for example, through having obtained independent and impartial advice on the competing applications) that any decision they reach is objectively based and is not affected by the arrangements.

#### **Stage one**

- 17.12** If more applications are received than the number of available licences, the authority must determine whether each application would be granted a licence if there were no limit on the number of licences that the authority could grant. Each application must be considered separately and no reference made to the other applications received.
- 17.13** During this process each of the other applicants will be considered an ‘interested party’ and may make representations. The consideration of representations should be the same as that for normal applications for premises licences (see part 7 of this Guidance).
- 17.14** This process will result in one or more provisional decisions to grant a premises licence.
- 17.15** As with other decisions on premises licences, the decision of the authority may be appealed against. Until all appeals are determined the licensing authority may not proceed to stage two.

## **Stage two**

- 17.16** The second stage of the process only applies where the number of applications which the licensing authority would provisionally grant under the stage one process exceeds the number of available casino premises licences.
- 17.17** Under the second stage of the process the authority has to decide between the competing applications and grant any available licences to those applications which in their opinion will result in the greatest benefit to its area. The principles which the licensing authority are going to apply in determining the stage two competition must be included in the authority's policy statement and therefore should be available to potential applicants before the authority invites applications for the available casino premises licence(s). The unsuccessful applicants must be informed of the result of the competition.
- 17.18** There is no right of appeal against the grant or refusal at stage two (other than by way of judicial review).
- 17.19** The Secretary of State has issued a code of practice about the procedure to be followed by licensing authorities in making determinations at both stage one and stage two, and also about the matters authorities are to take into account in making such determinations. The Act requires licensing authorities to comply with any code of practice issued by the Secretary of State.
- 17.20** Where an authority invites applications, those applications may be in the form of an application for a provisional statement as well as in the form of an application for the grant of a full casino premises licence. Where an application is made in the form of a provisional statement it is to be treated in the same way as an application for a casino premises licence and included in any two-stage determination process that the authority is required to carry out. If an application for a provisional statement is successful in that process, then it is not necessary for a further two-stage licensing process to be held when a casino premises licence application is eventually made by the operator to whom the statement has been issued.
- 17.21** Where a licensing authority issues a provisional statement following a two-stage determination process, they may limit the period of time for which the statement has effect. This is so that the authority can control the period within which the full casino premises licence application has to be made. Under Schedule 9 to the Gambling Act the authority is allowed to extend the period for which the provisional statement has effect if the person to whom it is issued applies to have it extended.