

Review

Licensing Without Hiccups



Headlines

- The new procedure for dealing with Minor Variations will be in force from 29 July 2009. Our full report is below.
- The Policing and Crime Bill and associated Code of Practice introduces a range of mandatory and discretionary conditions for all premises licences. The Home Office have now published the proposed content of the conditions in a draft Code of Practice. Your responses to the consultation (if any) are due back with Hammonds by Friday 31 July.
Please see page 4 for details of the proposals.
- The Gambling Commission has published further guidance on Poker Games in Licensed Premises in an attempt to address confusion amongst operators. We have included our guidelines on what is permitted and the accompanying rules at page 8.
- Proposals were being discussed by the Committee on Media and Sport to increase the permitted number of Temporary Event Notices per annum. This has been rejected by Parliament, although the issue is likely to re-emerge.
- There is disappointment over the failure to relax rules on live music yet again. Fergal Sharkey (Chief Executive of UK Music) has worked tirelessly for a number of years to promote the authorisation of live music in smaller venues to encourage the UK music scene at grass roots level. He had petitioned the DCMS to go back to the old '2 in a bar' rule, where no specific authorisation was required for two performers or fewer. However, the government has refused to take up the recommendations.
- BERR (the department of Business Enterprise and Regulatory Reform) has been tasked with implementing the EU Services Directive in the UK. The Directive aims to remove barriers in cross border trade in services between countries in the EU. The UK will essentially seek to create an online 'single point of contact' for operators to apply for all necessary authorisations. Entertainment is classed as a service and therefore it must be possible to submit premises licence applications online. The intention is for the Business Link website to be the single point of contact (and operate in a similar way to the Planning Portal).

However, BERR faces an uphill battle as to how to get over difficulties such as the differences between Licensing Authority Policies, the fact that many Authorities do not accept payments by debit or credit card and the fact that the Act requires that notices must be displayed on the Premises. We will update you as more information becomes available.

The Policing and Crime Bill and associated Code of Practice introduces a range of mandatory and discretionary conditions for all premises licences.

Minor Variations: Worth Waiting For?

The legislative Order introducing a 'Minor Variations' procedure has finally been made and will come fully into force on 29 July 2009. But is it really worth waiting for?

When the Department of Culture, Media and Sport announced that it was proposing to introduce a statutory procedure to deal with minor changes to Premises Licences, this was very much welcomed by the trade and practitioners. After all, why should a local resident have the power to object to moving an internal door by a few inches and why should the procedure be quite so burdensome and expensive?

Unfortunately, the new Order (having been amended somewhat during its passage through Parliament) does not quite live up to expectations. It is questionable whether the procedure will be used as much as anticipated. Indeed, in our view, it is only likely to be practical where there is no deadline for the variation to be granted (which is rarely the case for refurbishment works with a scheduled completion date).

BACKGROUND – THE CURRENT REGIME

Under the current licensing system there is a 'one size fits all' approach to variations to Premises Licences, whether the change is a minor amendment to layout, a major refurbishment, or a change in hours/ activities. For all or any of these changes, a full variation application is required (or indeed a new licence if the change is deemed to be 'substantial') with advertisement of the application on the premises and in a local newspaper.

If it is uncontested the application will be automatically granted following the notice period of 28 days (i.e. four weeks). If representations to the application are received that cannot be resolved, the application will be considered at a hearing before the Licensing Committee.

In practice, however, many Licensing Authorities will deal with minor changes to layout informally, upon submission of the 'proposed' plans and payment of a fee (normally £10.50). This has worked well for the trade where Authorities use their discretion accordingly, although the fact that these 'informal' applications have no statutory basis has meant that there is little consistency nationwide.

Therefore, when the Department of Culture, Media and Sport announced that it was proposing to introduce a formal procedure to deal with minor changes to licences, it was anticipated that the changes would provide a statutory basis to what many Licensing Authorities had been doing in practice since 2005.

THE MINOR VARIATIONS ORDER 2009

The Minor Variations Order defines what constitutes a minor variation (or more accurately what is not a minor variation) and the applicable procedures for approval.

What is a 'Minor Variation'?

Under the new regime, a Minor Variation can potentially be any change to a Premises Licence that does not:

- Extend the licence period (it is possible to apply for licences for a limited period, although the majority are granted without limit).
- Vary substantially the premises (either in relation to layout or activities).
- Specify an individual as the premises supervisor.
- Add the supply of alcohol as an activity.
- Authorise the supply of alcohol between 11pm and 7am, or increase the amount of time on any day during which alcohol may be supplied.

It should be noted that it is likely that discussions will be required with Licensing Authorities as to whether works will vary the premises 'substantially'. It is foreseeable that Authorities across the country will vary in their approach and as such it is questionable whether there will be more certainty than before.

The DCMS are aware of the potential for this uncertainty and have published guidance notes to accompany the changes. However, these are currently lacking in several key areas, notably:

- To what extent can the minor variations process be used to add/alter the provision of live music to a licence?
- What alcohol-related changes that do not amount to an extension of hours can be dealt with by the minor variations procedure?

If an Authority deems that works are too substantial to be considered minor, there will be no alternative but to submit a full variation application (or new licence application). The process of



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applying for a minor variation in the first instance will therefore have wasted time and money that could have been spent in submitting a formal variation in the first place.

WORTH THE WAIT?

The simplified procedure originally proposed for minor variations was as follows:

- An application form to be served upon the Licensing Authority with a fixed flat rate fee (now proposed to be £89).
- Licensing Authority to determine which Responsible Authorities appropriate and consult accordingly.

It was proposed that any application submitted under the new procedure would be subject to the exercise of discretion by the Licensing Authority in consultation with those Responsible Authorities deemed appropriate. For the application to be granted (i.e. properly deemed as a minor variation) the Licensing Authority must determine that none of the variations proposed in the application could have an adverse effect on the promotion of any of the licensing objectives.

However, the House of Lords in particular had reservations about the proposed lack of requirement for public notice of a minor variation application. The House considered that local residents and businesses should be able to express their views to the Licensing Authority and should receive sufficient notice to do so.

As a result of the debates in both Houses, the Order that comes into force at the end of this month will therefore:

- require applicants to advertise proposed minor variations on a white notice outside the premises for ten working days;
- give local residents and businesses the right to make representations in writing to the Licensing Authority; and
- require the Licensing Authority to consider any such representations received within the ten day period in arriving at its decision.

The amendments to the scheme mean that there will be a greater administrative burden on applicants. Moreover, there is a greater likelihood that a minor variation application will be rejected/opposed as local residents will have the right to object.

However, perhaps most restrictive of all is the time limits and 'deemed' provisions in the new Order:

- If the variations could not have an adverse affect on the objectives of the licence the Licensing Authority must grant the application. Otherwise it must be rejected. This determination must be made within 15 working days after the application is received.
- If the matter is not dealt with by the Licensing Authority within those 15 working days (i.e three weeks) it is rejected automatically with the fee returned (unless both parties agree to have the matter dealt with as a 'new' application with the 15 day period starting over again).

It is important to contrast this with the formal variation procedure already in force. In short, if you apply for a formal variation application, the application period will be four weeks and if no objections are received, the application is deemed granted. Under the new minor variation procedure, the application period will be only slightly less (three weeks) but if no decision is made, the application will be deemed refused.

From a cost perspective, the savings of the minor variations procedure are principally the Council fee (which will be around £100 as opposed to £635 under the formal procedure for a premises in the top bracket of rateable values) and the newspaper advertisement (no advertisement is required for minor variations, saving in the region of £250 to £800 plus VAT, dependant on the local newspaper).

However, these cost savings must be balanced against the potential cost implications of delay if the application is deemed refused. Applicants will need to consider that potentially, if two applications are required, there could be an increase in Council fees, disbursements and legal fees where an application is rejected on the ground of a potential impact upon the licensing objectives as in these circumstances it would of course be necessary to follow up the minor variation application with a full application in any event. Where an application is rejected (rather

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than deemed refused) the Council fee is also retained. It would therefore be necessary to pay for two applications, where one would have sufficed if a formal application was made in the first place!

For all of these reasons, it seems that the Minor Variations Order really wasn't worth the wait. The procedure will only be successful where Licensing Authorities are diligent in ensuring that applications are dealt with on time; and are happy to exercise their discretion to determine that changes are not so substantial as to require a formal application and do not infringe the licensing objectives in any meaningful way. Freedom to exercise discretion in this way is perhaps unlikely to be fully utilised in the current climate, where a licensing officer may well prefer to play it safe by insisting upon a formal application in any event.

The Policing and Crime Bill and Proposed Code of Practice

POLICING AND CRIME BILL

The Policing and Crime Bill, originating from the Home Office, received its second reading from the Lords at the beginning of June when it was committed to a Committee of the whole House. The provisional date for further consideration at Committee Stage is the 13th of October. It is envisaged that the Bill will be implemented sometime in Autumn.

The Bill draws together a number of disparate issues on policing and crime, including new provisions to improve police accountability and effectiveness, new provisions surrounding prostitution and soliciting, reclassification of lap-dancing clubs (which will require separate authorisation as 'sex establishments'), amendment of the criminal asset recovery scheme under the Proceeds of Crime Act and changes to the arrangements for airport security and policing.

In addition, the Bill introduces various provisions aimed to tackle alcohol misuse, including:

- Increasing the penalty for consuming alcohol in a public place from £500 to £2500 (at current levels);
- The offence of 'Persistently selling alcohol to children' will be committed if alcohol is sold unlawfully on the same premises to a person under 18 on 2 or more occasions within a 3 month period i.e. '2 strikes and out' (this offence is currently committed where alcohol is sold on 3 or more occasions within that period).
- Amendment of rules relating to the confiscation of alcohol from young persons;
- Introduction of a new offence for persistently possessing alcohol in a public place;
- The power to require an individual representing a risk of disorder to leave a public place to be extended to 10 year olds and over (the current age limit is 16 and over); and
- The power to introduce general licensing conditions relating to the sale of alcohol.

The power to introduce general licensing conditions will impact upon all holders of premises licences where the premises licence includes authorisation to supply alcohol. The Bill proposes two different types of general conditions:

1. Mandatory conditions which may be introduced by the Secretary of State and will be applicable to all premises; and
2. Discretionary conditions which may be imposed by Licensing Authorities of their own motion on groups of premises within their jurisdiction.

The Act provides that there will be no more than nine mandatory conditions (it is not clear how this figure was arrived at or why). Any mandatory conditions so specified will override any conditions already attached to a Premises Licence if they are identical to, or more onerous than, the existing conditions.

In addition to the mandatory conditions applying to all licences, a Licensing Authority may resolve to impose discretionary conditions (from a list of permitted conditions) on two or more existing



If the matter is not dealt with by the Licensing Authority within those 15 working days it is rejected automatically with the fee returned (unless both parties agree to have the matter dealt with as a 'new' application with the 15 day period starting over again).

relevant premises licences in its area. This power will be engaged if the Authority considers that, in the case of each of the premises concerned:

- There has been nuisance to members of the public, or a section of the public, or disorder, on or near the premises,
- The nuisance or disorder is associated with the consumption of alcohol on the premises or with the consumption of alcohol supplied on the premises,
- There is likely to be a repetition of nuisance or disorder that is so associated, and
- It is appropriate to impose the conditions for the purposes of mitigating or preventing the nuisance or disorder concerned.

Whilst on first glance it appears that the discretionary conditions will only be applicable to 'problem premises', it is foreseeable that some Licensing Authorities will seek to impose the conditions on any premises within a 'stress' or 'cumulative impact' zone. Town and City Centre Premises beware! Licensing Authorities who have included such zones as part of their Licensing Policies are familiar with arguing that premises are associated with nuisance or disorder in a locality simply because of the cumulative effect. It is not difficult to imagine a similar argument being applied to justify an imposition of these conditions on all premises within a busy area, whether those premises are night-clubs, pubs, hotels or restaurants. It is therefore essential that all operators consider the effect of these discretionary conditions.

As well as being able to apply these conditions of its own volition, the Licensing Authority MUST consider whether to make a resolution to impose such conditions if a Responsible Authority makes this request.

Again, any discretionary conditions imposed will override any conditions already attached to a Premises Licence if they are identical to, or more onerous than, the existing conditions.

THE CODE OF PRACTICE FOR ALCOHOL RETAILERS

The Government is currently consulting on a Code of Practice which specifies the proposed mandatory and discretionary conditions to be introduced under the provisions of the Policing and Crime Bill. The deadline for responses to the consultation is 5 August 2009 and we would urge you to respond if you are concerned as to the effects that the proposals could have on your business. If you would like us to include your comments in our response, please let us have your comments by Friday 31 July

Premises that breach licence conditions, including the new mandatory code and local discretionary conditions, will continue to face a range of possible sanctions including losing their licence, having additional tough conditions imposed on their licence or, on summary conviction, a maximum £20,000 fine and/or six months imprisonment.

The power to introduce general licensing conditions will impact upon all holders of premises licences where the premises licence includes authorisation to supply alcohol.

THE PROPOSED MANDATORY CONDITIONS

1. A ban on irresponsible promotions such as 'all you can drink for £10', speed drinking competitions, or any promotion that encourages the consumption of large quantities of alcohol or the rapid consumption of alcohol.
2. A ban on alcohol being dispensed directly into the mouth of customers.
3. A requirement that specified minimum measures of alcohol are available to customers (although there is no requirement to provide smaller glass sizes).
4. Free tap water to be available to customers.
5. Online or mail order retailers to have robust age-verification system.
6. Point-of-sale information to be visible to all customers giving information on the unit content of a representative sample of drinks (and health guidelines to be posted for off-trade premises).

It is important to remember that the proposals are at this stage just that. The final content of the conditions will be influenced by responses to the consultation and further parliamentary debate.

One of the original proposed mandatory conditions was a requirement that a personal licence holder should be present on the premises at all times. At the moment, this condition has been removed from the proposed 'list' as the industry have argued that the cost and practicalities of compliance with such a condition would bring them to their knees. However, it is clearly possible that parliament may re-introduce such a condition and it would be sensible for operators to review the number of personal licence holders at each of their premises now.

In relation to the mandatory conditions specified in the consultation document and set out above, we propose to respond on three specific issues, which in our view will be relevant to our clients:

- The proposed wording for the condition banning irresponsible promotions is too wide and overly restrictive. There is no concept of 'irresponsibility' provided and no definition of 'discount'.

The full wording of the condition includes a statement that "promotions for free or discounted alcohol to any group that is defined by sex, age, appearance, vocation, dress or numbers within the group" will be prohibited. This may prevent, for example, premises offering to provide a bottle of champagne to hen parties, which in our view may be a legitimate marketing tool which does not particularly encourage excessive consumption of alcohol.

The full wording also prohibits "providing unlimited or unspecified quantities of alcohol for a fixed or discounted fee which relates to alcohol only offers or alcohol and entry to the premises offers." Whilst it is intended that this condition will catch 'all you can drink for £10' type promotions, there is a clear possibility that this wording will also encompass private functions, for example charitable functions where an attendee is asked to pay a set amount for attending a function with entrance, a meal and alcohol included (often the amount of alcohol will be unspecified at these type of functions).

- The requirement for minimum measures of alcohol to be available (i.e. ½ pints of beer, lager or cider, 25ml or 35ml of spirits and 125ml for wine in a glass). The full wording of the consultation specifies that licensed premises would not be required to purchase new glassware to comply with this condition, although an approved measure would be required.

Clearly, if premises do not already have the smallest approved measures, there will be a cost involved in purchasing these. Perhaps more importantly, although it is not a requirement to purchase new glasses, premises where branding and appearance are key (such as hotels) would not be happy to serve smaller measures in existing glassware and would therefore be required to purchase new glasses.

- The requirement to display point of sale information in relation to unit content of alcoholic drinks could potentially be very costly for operators. The consultation document asserts that there is confusion amongst the general public about the number of units in different drinks and the current guidelines on consumption, however there is no evidence provided in the document that suggests that providing this information will have any impact on alcohol misuse. In our view, this mandatory condition is therefore disproportionately burdensome for the trade.

It has not been made clear what a 'representative sample' of alcohol will be. However, it has been specified that the notices should be displayed at every point of sale. At a hotel, this could clearly be taken to include reception, all bar serveries, all tables where table service is provided (including tables outside), all tables in any hotel restaurant, all meeting/ function rooms and all bedrooms. Many hotels will, of course, want to ensure that such notices are branded/ house-styled and the cost across a nationwide estate is therefore likely to be considerable. This cost will presumably be ongoing as new lines are added (although this may be dependant upon the interpretation of 'representative sample'.

The consultation suggests that smaller premises may have difficulty displaying the signage under this condition due to lack of available space. It requests views on whether any types of premises should be made exempt from the requirements and evidence of potential costs and benefits. We would suggest that hotels are exempted from the requirements for the reasons given above; along with premises such as offices, museums, galleries, theatres and small premises where there is no obvious place to display these notices/ where the consumption of alcohol is ancillary to the main activities of the premises.

We would appreciate any feedback on any operational difficulties or cost implications of implementation that you envisage for your business. As set out above, please can you provide us with your feedback and costings by Friday 31 July in order that we can include your comments within our formal response to the consultation.



we would urge you to respond if you are concerned as to the effects that the proposals could have on your business.

THE PROPOSED DISCRETIONARY CONDITIONS

1. Bans discounted sale of alcohol where discount applies at particular times of the day or week (eg 'happy hours') at evenings and weekends.
2. Bans 'pub crawl' offers at discounted prices at evenings and weekends.
3. Risk review to be carried out and agreed management plan to be put in place and reviewed.
4. Requires glass collection every 30, 45 or 60 minutes during evenings and weekends.
5. Bans serving of alcohol in glass containers during evenings and weekends.
6. Prevents customers leaving premises with unsealed glass containers (whether they contain alcohol or not) during evenings and weekends.
7. Requires toilets to be checked every 30, 45, 60 or 90 minutes during evenings and weekends and records kept.
8. Requires drugs/ weapons searching of all customers by SIA staff at evenings and weekends.
9. Incident records to be maintained and provided on request.
10. Dispersal policy to be implemented in consultation with police and licensing authorities, which can include specified 'wind down' plan, prevention of leaving with unsealed glass containers, CCTV operation, transport and taxi information and maintenance of live text or radio pager link with local police.
11. CCTV must be in operation, with footage being kept for 28 days and to be made available on request during evenings and weekends.
12. Requirement to display information on public transport and taxi companies.
13. Requirement for direct telephone line to local licensed taxi companies.
14. Live text or radio pager link with police to be in place at premises.
15. 'Challenge 21' scheme to be in operation.
16. Bulk discounts must not be offered during stipulated times at evenings and weekends (applies to off-trade only).

Proposed discretionary conditions seek to micro-manage the operation of licensed premises.

Taken as a whole, the proposed discretionary conditions seek to micro-manage the operation of licensed premises. The conditions seem to be aimed at pub and night-club operations, but it is clearly possible that some Licensing Authorities may seek to apply some or all of the conditions to a wide range of premises if they argue that the premises contribute to the 'cumulative impact' on disorder/ nuisance simply because they are in a particular area and supply alcohol under their premises licence.

One of the key considerations here is that Responsible Authorities already have the power to apply for review of a Premises Licence if a particular premises is causing problems of disorder or nuisance. At the review hearing, the Licensing Authority can impose additional conditions on that premises licence to combat those problems, although the applicant would be able to make representations to the Committee as to whether a condition would be appropriate/ workable in the circumstances. In our view, given the existing power of review, there is no clear argument as to why this additional power to impose 'standard' conditions to groups of premises is necessary or proportionate.

It is important to remember that whilst the discretionary conditions may well be good practice, once they are made conditions on the licence, breach of the requirement is an offence punishable by a fine of up to £20,000 and / or 6 months imprisonment. This penalty seems disproportionate given the nature of a number of the proposed requirements.

In addition to these general comments, we propose to respond to the consultation in relation to the following specific conditions:

- The potential requirement to agree a management plan and dispersal policy with the police/ licensing authority could create numerous practical difficulties. In some areas it

may be impossible to reach agreement as the police/ licensing authority may request that unreasonable procedures are included.

- The ability for a Licensing Authority to be able to dictate the frequency of toilet checks and glass collections could potentially be staff-intensive and unnecessary. For many premises, the level of trade fluctuates throughout the day and night and collections/ checks may be required more or less frequently than is dictated. All responsible operators do this in any event and arguably have far more experience and are better placed to determine best practice in these matters.
- The possibility that premises may be required to employ SIA staff for drugs/ weapon searching is extremely concerning. Employment of these additional staff would be expensive in itself and obtaining non-frontline SIA licences for in-house managers supervising those staff would be an additional burden. Moreover, the employment of SIA staff may be totally inappropriate and unnecessary for certain types of venue.
- CCTV installation or upgrading is prohibitively expensive. Many responsible operators already have CCTV but the recording capability is less than 28 days. However, if there is an incident, the operators will retain the recordings of that day/ incident in any event. The requirement to install or upgrade CCTV for all premises within a particular area seems disproportionate to the costs involved.
- 'Challenge 21' is currently a voluntary scheme. The inclusion of Challenge 21 within the proposed discretionary conditions would effectively make non-compliance an offence for relevant premises. This is a change of focus, but moreover it would mean that the potential penalty for selling to a person under 21 without checking their ID (£20,000/ 6 months imprisonment for operating otherwise than in accordance with an authorisation) would eclipse the maximum fine for selling to a person under the age of 18 (currently £5,000)! Many Authorities and police forces are already promoting 'Challenge 25' rather than "Challenge 21' and many operators have therefore introduced this standard. There is therefore a danger that this proposed discretionary condition will be outdated and meaningless very quickly, although it is possible that the condition itself could be changed to reflect an older age, depending on responses to the consultation.

Again, we would appreciate any feedback on any operational difficulties or cost implications of the proposed discretionary conditions, particularly any cost information you can provide in relation to upgrading CCTV and employing SIA staff. Again, please let us have any feedback/ costings by Friday 31 July for inclusion within our formal response to the consultation.

SUMMARY

The Policing and Crime Bill and associated proposed Code of Practice potentially has significant operational and cost implications for an industry already crippled by the smoking ban and the credit crunch. However, it is clear that control of this initiative will be under the Home Office (rather than the Department of Culture, Media and Sport) and as such it is likely that the legislation will be implemented sooner rather than later as part of a wider effort to tackle anti-social behaviour.

Poker – Permitted in Alcohol Licensed Premises?

EXEMPTIONS AND LIMITATIONS

The rules on card games in premises licensed for the supply of alcohol were overhauled in the Gambling Act 2005 (the Act). Previously, gaming for money was not permitted, unless you were a licensed provider such as a casino, or unless the game being played was dominoes or cribbage.

However, if you want to provide a night of gambling, for example for a Christmas function or other event, it is now possible, subject to certain rules. These changes came into effect on 1 September 2007, but confusion amongst operators as to what is permitted still reigns, particularly



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in relation to poker games. As such, the Gambling Commission have recently published an advice note on hosting poker games in premises licensed for the supply of alcohol.

In short, it is an offence under the Gambling Act 2005 (the Act) to provide facilities for gambling without the relevant operating licence unless the activity is subject to an exception. However, equal chance gaming, including poker, is exempt, subject to limitations on stakes and prizes. In addition, the premises may not levy or deduct an amount from stakes or winnings or charge a participation fee.

Stakes and prizes limitations are set out below. Please note that other establishments such as members' clubs have separate limits that apply.

POKER STAKES AND PRIZES LIMITATIONS

The maximum stake per player is £5 per game, and the combined stakes for the premises must not exceed £100.

The maximum prize is £100 per game. This maximum includes money and other items, which have a value such as vouchers, goods and buy-ins at other poker tournaments.

The premises cannot charge a participation fee including, for example, by having entrants pay a compulsory charge for a meal.

The Gambling Commission recommends you take legal advice before you run a poker tournament or league. It is important to remember that the maximum prize for each game is always £100. This applies even if it is a national or regional final. Furthermore, a game played on one set of premises must not be linked with a game on another set of premises.

CODE OF PRACTICE FOR EQUAL CHANCE GAMING IN CLUBS AND PREMISES WITH AN ALCOHOL LICENCE

The Code of Practice relating to the provision of facilities for equal chance gaming in pubs and clubs was issued in accordance with section 24 of the Act and applies to poker as well as other games. The Code includes provisions on the prevention of access to gambling by children and young people, including holding gaming in areas with access restricted to adults and age verification measures; ensuring that gaming is fair and open, including the provision of rules and equipment for gaming; and preventing gambling being a source of crime and disorder.

SUMMARY OF GENERAL PROVISIONS OF CODE:

- Compliance with the Code should be the responsibility of the Designated Premises Supervisor in alcohol-licensed premises.
- Gaming in pubs and clubs should be ancillary to the main purpose of the premises.
- All gaming must be located so that staff can supervise it.
- The gaming supervisor should put into effect procedures designed to prevent underage gambling. This should include:
 - holding the gaming in premises or parts of premises which are restricted to adults;
 - checking the age of potentially underage players; and
 - refusing access to the gaming to anyone apparently underage who cannot produce an acceptable form of age verification and identification.
- All equipment should be supplied by the premises and should be secured when not in use.
- All payments should be paid for in cash before the commencement of the game.
- The gaming supervisor should take reasonable steps to ensure that all employees understand their responsibilities under this code.
- For all organised games, the rules of the game being played should be displayed or otherwise made available to all players before and during the game, for example by providing the rules on a laminated card.

Confusion amongst operators as to what is permitted still reigns, particularly in relation to poker games

- Gaming supervisors should ensure a pleasant atmosphere and deny participation to customers who cheat or collude with other players or employees, threaten other players or employees, create a disturbance or damage equipment.

SPECIFIC PROVISIONS FOR POKER:

- Where cash games are allowed, the pot should be kept in sight so that it can be viewed by the gaming supervisor at all times.
- Games organised by, or on behalf of, management of the premises should not be cash games but tournament poker played in chips supplied by the premises.
- In the context of the Code, a game is what is generally considered to be an established and conventional game.
- To ensure that stake and prize limits are not exceeded, the gaming supervisor is to keep a record of: the number of games played, the number of players and the amount staked.
- The gaming supervisor should take all reasonable steps to ensure that individual stake limits are not exceeded through side bets, additional raises, re-buys or other ways of increasing the pot. Where this has happened, the game should be stopped and stakes returned to the individual players.

The rules within the Code are onerous for operators, particularly for larger premises such as hotels, where close supervision may be difficult. Any operator should therefore consider carefully whether they can comply with the Code before agreeing to host a poker match or tournament.

FURTHER INFORMATION

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