

(Report of the Licensing Officer, Samantha Potts 7364)

**Application – Premises Licence Review.**

**Premises – The Amusement Park, Bridge Road, Sheerness, Kent**

| Provisions                  | Days open       | Annual Fee | Action |
|-----------------------------|-----------------|------------|--------|
| Adult Gaming Centre         | Monday - Sunday | £703.00    |        |
| Family Entertainment Centre | Monday - Sunday | £610.00    |        |

**Background**

The Licensing Department request the review of the above licences under Section 193 of the Gambling Act 2005 – Non payment of annual fees. Under the Gambling Act 2005 a review can be requested by the Licensing Authority itself.

The Amusement Park in Sheerness is owned and operated by Mr Thomas Holland, and was granted two Premises licences in 2005.

Each September an annual administration fee is payable. Letters are sent to all licence holders in July reminding them of the requirement to pay by 1<sup>st</sup> September, follow up letters are sent if payment is not received.

In general the Licensing Department have always maintained a good relationship with Mr Holland, however in 2009 he took nine months to pay the annual fees, the licences were not reviewed in 2009 as this is deemed as a last resort and not an action taken lightly by the Licensing Department. Instead several letters were sent and only when a court claim was raised was payment received. In addition the Licensing Department is still awaiting written confirmation that another of Mr Holland's premises (T's Leisure) has closed, this was the justification given by Mr Holland for not paying the fee for this premises in 2009.

To date this year Mr Holland has been sent four letters and contacted by telephone. Mr Holland has contacted the Licensing Department on one occasion when he confirmed that he did owe the money and would be sending payment. No such payment has been received, this has been confirmed by the chief cashier who has double checked the system on our request. Section 193 of the Gambling Act clearly states "*Where the holder of a premises licence fails to pay the annual fee in accordance with regulations under section 184 the licensing authority shall revoke the licence*" After discussions with the Councils Legal team it was felt that the review process is the only course of action left to take.

**Consultation**

We have consulted in the prescribed manor with the Regulatory Authorities. Notice of the review has been served on Mr Holland and advertised for 28 days. The Gambling Commission have confirmed that this course of action is just and that the correct procedure has been followed.

**Summary**

Members are asked to consider this review and deal with the non payment of the annual fees in accordance with Section 193 of the Gambling Act 2005. Members should be aware that there is no appeal process in respect of this section of the Act. Any decision that they make today will be effective immediately.

**Supporting Documents**

Review Application

4 Letters sent to Mr Holland

Copy of Section 193 of the Gambling Act 2005

E-mail from cashiers

## Application for a review of a premises licence under the Gambling Act 2005

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

#### Part 1 – Applicant Details

1. Name of Applicant: Swale Borough Council Licensing

*[Where the applicant is an individual please give your first name(s) as well as your surname]*

2. Applicant's address (home  or business  *[check or tick appropriate box]*)

Swale House  
East Street, Sittingbourne, Kent

Postcode: ME10 3HT

3(a) Are you making the application as a responsible authority? Yes  No

3(b) If the answer to question 3(a) is yes, indicate the type of responsible authority:

Licensing Authority

4(a) If the answer to question 3(a) is no, please confirm by ticking or checking the box that you are applying as an interested party

4(b) If you have ticked or checked the box in answer to question 4(a), please indicate on what basis you qualify as an interested party:

*[Where there are further applicants, the information required by questions 1 to 4(b) should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants"]*

#### Part 2 – Premises Details

5. Give the trading name used at the licensed premises to which the application for a review relates: The Amusement Park

6. Give the address of the premises or, if not known, give a description of the premises and its location. Where the premises are a vessel, then (if known) give the place indicated in the premises licence as the place in the licensing authority's area where the vessel is wholly or partly situated. If possible, any address should include a postcode:

Bridge Road  
Sheerness  
Kent

Postcode: ME12 1RH

7. Type of premises:

Casino

Bingo Hall

Adult Gaming Centre

*(arcade restricted to those who are 18 or over)*

Betting (track)

Betting (other)

Family entertainment centre

*(arcade which admits both over and under 18s)*

8. Premises licence (if known): SWALE-GA05-0026/0032

9. Give the name of the person(s) or organisation(s) in whose name the licence is held.

Mr T Holland

*[Where an individual is the licence holder please give their first name(s) as well as their surname.]*

### Part 3 – Details of grounds on which a review is being sought

10(a) Please give details of the grounds on which a review is being sought.

Non payment of the annual licensing fees (£1313.00)

10(b) Indicate any specific actions you consider the licensing authority should take following the review, including the reasons why you consider those actions are appropriate:

The Gambling Act 2005 clearly states in section 193 that non payment of the fee results in revocation of the licence, Mr Holland took 9 months to pay last year and this is deemed as unacceptable by the Councils legal department and the Gambling Commission.

### Part 4 – Supporting Documents

11. List any supporting documents which you are submitting with the application:

Four letters sent to Mr Holland

Relevant section of the Gambling Act 2005.

### Part 5 – Declarations and Checklist

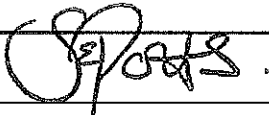
I/ We confirm that, to the best of my/ our knowledge, the information contained in this application is true. I/ We understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading in, or in relation to, this application.

I/We understand that it is now necessary to give notice to the licence holder and the responsible authorities in relation to the premises

### Part 6 – Signatures

12. Signature of applicant or applicant's solicitor or other duly authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature:



Print Name: Samantha Potts

Date: 5/11/2010 (dd/mm/yyyy)

Capacity: Licensing Officer

[Where there is more than one applicant, please use an additional sheet clearly marked "Signature(s) of further applicant(s)". The sheet should include, for each additional applicant, all the information requested in paragraph 12.]

[Where the application is to be submitted in an electronic form, the signature should be generated electronically and should be a copy of the person's written signature.]

### Part 7 – Contact Details

13(a) Please give the name of a person who can be contacted about the application:

Samantha Potts

13(b) Please give one or more telephone numbers at which the person identified in question 13(a) can be contacted:

01795 417364

14. Postal address for correspondence associated with this application:

N/A

Postcode:

15. If you are happy for correspondence in relation to the application to be sent via e-mail, please give the e-mail address to which you would like correspondence to be sent:

N/A

Swale House, East Street  
Sittingbourne, Kent ME10 3HT  
DX59900 Sittingbourne 2  
Phone: 01795 424341  
Fax: 01795 417141  
www.swale.gov.uk



Mr T Holland  
TSH Holdings Ltd  
The Amusement Park  
Bridge Road  
Sheerness  
Kent, ME12 1RH

Please ask for: Licensing Department  
Direct Line: 01795 417364  
e-mail: [Licensing@swale.gov.uk](mailto:Licensing@swale.gov.uk)  
Our Ref: **SWALE-GA05-189-0026/32**  
Date: 1<sup>st</sup> July 2010

Dear Sir

**Ref: The Gambling Act 2005, Annual Fee Payments.**

I am writing with reference to the annual renewal fee for The Amusement Park, Bridge Road, Sheerness, which is due on or before the 1<sup>st</sup> September 2010. You will recall for previous correspondence from us that this Council has elected to collect its gambling fees each September. Your figures may have been adjusted in the first year to reflect this, however, the full amount is now payable for the forthcoming year. The fees are as follows:

- AGC, The Amusement Park, Bridge Road, Sheerness - £703.00
- FEC, The Amusement Park, Bridge Road, Sheerness – £610.00

Please note that payments by cheques should be made payable to 'Swale Borough Council'. Failure to pay the annual fee may result in your licence(s) being revoked.

If you have any queries regarding the licensing procedure, please contact this department on 01795 417364

Yours Sincerely

Samantha Potts  
Licensing Officer

Swale House, East Street  
Sittingbourne, Kent ME10 3HT  
DX59900 Sittingbourne 2  
Phone: 01795 424341  
Fax: 01795 417141  
www.swale.gov.uk



Mr T Holland  
TSH Holdings Ltd  
The Amusement Park  
Bridge Road  
Sheerness  
Kent, ME12 1RH

Please ask for: Licensing Department  
Direct Line: 01795 417364  
e-mail: [Licensing@swale.gov.uk](mailto:Licensing@swale.gov.uk)  
Our Ref: **SWALE-GA05-189-0026/32**  
Date: 2<sup>nd</sup> September 2010

Dear Sir

**Ref: The Gambling Act 2005, Annual Fee Payments.**

I am writing with reference to the annual renewal fee for The Amusement Park, Bridge Road, Sheerness, which is now overdue. You will recall for previous correspondence from us that this Council has elected to collect its gambling fees each September. Your figures may have been adjusted in the first year to reflect this, however, the full amount is now payable for the forthcoming year. The fees are as follows:

- AGC, The Amusement Park, Bridge Road, Sheerness - £703.00
- FEC, The Amusement Park, Bridge Road, Sheerness - £610.00

Please note that payments by cheques should be made payable to 'Swale Borough Council'. Failure to pay the annual fee may result in your licence(s) being revoked.

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Yours Sincerely

Samantha Potts  
Licensing Officer

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Mr T Holland  
Bungalow 2  
Bridge Street  
Sheerness  
Kent  
ME12 1RH

Please ask for: Licensing Department  
Direct Line: 01795 417364  
e-mail: [Licensing@swale.gov.uk](mailto:Licensing@swale.gov.uk)  
Our Ref: **SWALE-GA05-189-0026/32**  
Date: 20th October 2010

Dear Mr Holland

**Ref: The Gambling Act 2005, Annual Fee Payments.**

Further to my letters dated 1<sup>st</sup> July and 1<sup>st</sup> September and our subsequent telephone conversations the annual renewal fees for The Amusement Park, Bridge Road, Sheerness, are still **outstanding**. The fees are as follows:

- AGC, The Amusement Park, Bridge Road, Sheerness - £703.00
- FEC, The Amusement Park, Bridge Road, Sheerness – £610.00

In the year 2009/2010 you took nine months to settle the annual fee payments, this has been deemed as unacceptable by our Legal Department and the Gambling Commission, who normally allow 28 days.

**I must now request that payment is made within 14 days of the date of this letter otherwise your licence(s) will be revoked and court proceedings instigated to recover the debt.**

If you have any queries regarding the licensing procedure, please contact this department on 01795 417364

Yours Sincerely



Samantha Potts

Licensing Supervisor



Swale House, East Street  
Sittingbourne, Kent ME10 3HT  
DX59900 Sittingbourne 2  
Phone: 01795 424341  
Fax: 01795 417141  
www.swale.gov.uk



Mr T Holland  
Bungalow 2  
Bridge Street  
Sheerness  
Kent  
ME12 1RH

Please ask for: Licensing Department  
Direct Line: 01795 417364  
e-mail: [Licensing@swale.gov.uk](mailto:Licensing@swale.gov.uk)  
Our Ref: **SWALE-GA05-189-0026/32**  
Date: 3<sup>rd</sup> November 2010

Dear Mr Holland

**Ref: The Gambling Act 2005, Review of Licence(s)**

I am writing to formally give 28 days notice of our intention to review the Gambling Premises Licences for the AGC and FEC at The Amusement Park, Bridge Road, Sheerness.

As you are aware it is a requirement under the Gambling Act 2005 to pay an annual fee, to date you have not paid the £1313.00 owing, despite 3 warning letters being sent.

If payment is received by this office by **Friday 3<sup>rd</sup> December** the licences will remain valid. If payment is not received a review hearing will take place at Swale House on **Thursday 16<sup>th</sup> December at 10am**, you will be invited to attend and a full copy of the committee report will be sent to you prior to the hearing.

The enclosed notice must be displayed at the front of your premises for 28 consecutive days. A copy has also been displayed at the Council Offices in Sittingbourne.

If you have any queries regarding the licensing procedure, please contact this department on 01795 417364

Yours Sincerely



Samantha Potts

**Licensing Supervisor**

Cc: Geoff Rowley – Police Licensing Officer  
David Bragg – Gambling Commission  
Michael Moss – Enforcement Officer (Swale Borough Council)

**Definitions**

- “chief officer of police”: s 213(b)  
 “chief officer’s area”: s 213(c)  
 “the Commission”: s 353(1)  
 “licensee”: s 213(e)  
 “the licensing authority”: s 213(f)  
 “premises”: s 353(1), (2)(g)  
 “premises licence”: s 353(1)

**193 Revocation for failure to pay fee**

[474]

- (1) Where the holder of a premises licence fails to pay the annual fee in accordance with regulations under section 184 the licensing authority shall revoke the licence.
- (2) But the licensing authority may disapply subsection (1) if they think that a failure to pay is attributable to administrative error.

**NOTES****Commencement**

1 September 2007; see s 358 post and the note “Orders under this section” thereto.

**Sub-s (1): Premises licence** As to the nature, etc of premises licences, see s 150 ante and the note thereto.

**Sub-s (1): Licensing authority** For the licensing authorities for the purposes of this Act, see s 2 ante. As to the licensing authorities’ functions, see ss 153–156 ante.

**Application** See the note to s 150 ante.

**Additional information** See the Introductory Note(s) to this Act.

**Definitions**

- “holder”: s 213(d)  
 “the licensing authority”: s 213(f)  
 “premises licence”: s 353(1)

**194 Lapse**

[475]

- (1) In the case of a premises licence issued to an individual, the licence shall lapse if—
- the licensee dies,
  - the licensee becomes, in the opinion of the licensing authority as notified to the licensee, incapable of carrying on the licensed activities by reason of mental or physical incapacity,
  - the licensee becomes bankrupt (within the meaning of section 381 of the Insolvency Act 1986 (c 45)), or
  - sequestration of the licensee’s estate is awarded under section 12(1) of the Bankruptcy (Scotland) Act 1985 (c 66).
- (2) In any other case a premises licence shall lapse if the licensee—
- ceases to exist, or
  - goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).
- (3) If a licensing authority become aware that a premises licence issued by

(ii) in Scotland, the chief constable of the police force maintained for a police area in which the premises are wholly or partly situated, and

(c) [Commissioners for Her Majesty’s Revenue and Customs].

**NOTES****Amendments**

**Sub-s (3)(c):** words in square brackets substituted by virtue of the Commissioners for Revenue and Customs Act 2005, s 50(1), (7), title Taxation.

**Commencement**

21 May 2007; see s 358 post and the note “Orders under this section” thereto.

**Sub-s (1): Premises licence** As to the nature, etc of premises licences, see s 150 ante and the note thereto.

**Sub-s (1): Shall lapse** As to reinstatement, see ss 195, 196 post.

**Sub-s (1): Licensing authority** For the licensing authorities for the purposes of this Act, see s 2 ante. As to the licensing authorities’ functions, see ss 153–156 ante.

**Sub-s (3): Notify** See further, in connection with a requirement under this Act to give notice, s 353(4) post.

**Sub-s (3): The Commission** Is the Gambling Commission; see s 353(1) post. As to the establishment, etc of the Gambling Commission, see s 20 ante, Sch 4 post, and the note “The Commission” to that section.

**Sub-s (3): England; Wales** See the notes to s 2 ante.

**Sub-s (3): Commissioners for Her Majesty’s Revenue and Customs** See the notes to s 23 ante.

**Application** See the note to s 150 ante.

**Additional information** See the Introductory Note(s) to this Act.

**Bankruptcy (Scotland) Act 1985** Certain provisions of that Act are printed in Volume 5 of this Act and Insolvency, but not s 12 thereof, which applies to Scotland only and is outside the scope of this work.

**Insolvency Act 1986** See Vol 4, title Bankruptcy and Insolvency.

**Definitions**

- “chief officer of police”: s 213(b)  
 “chief officer’s area”: s 213(c)  
 “the Commission”: s 353(1)  
 “licensee”: s 213(e)  
 “the licensing authority”: ss 2, 353(1)  
 “premises”: s 353(1), (2)(g)  
 “premises licence”: s 353(1)

**195 Reinstatement**

- (1) This section applies where a premises licence lapses under section 194.
- (2) During the period of six months beginning with the date of the premises licence a person may apply to the licensing authority for the licence to be reinstated with the applicant as the licensee.
- (3) The provisions of this Part shall apply in relation to an application for a premises licence as they apply in relation to an application for a premises licence issued by

## Samantha Potts

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**From:** Sally Pearce  
**Sent:** 10 November 2010 14:38  
**To:** Samantha Potts  
**Subject:** RE: Payment

Sam

I've checked the system that we use to take credit card payments and the cash receipting system. I cannot find any payments for £1313.00 or £703.00 or £610.00.

Sorry,  
Sally