

## Police statutory powers under the Gambling Act 2005

Information note 2017

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### 1 Introduction

- 1.1** This quick guide describes police officer powers in relation to the Gambling Act 2005 (the Act). It does not offer guidance as to other legislation and powers.
- 1.2** The Act gives powers to ensure compliance with the licensing objectives to:
- Enforcement officers (generally designated Gambling Commission staff)
  - Authorised persons (generally local authority licensing staff)
  - Police officers.
- 1.3** Powers exist broadly to deal with legal compliance and to investigate suspected offences under the Act. Providing a police officer is on a premises lawfully, broad powers exist:

#### **Gambling Act licensing objectives:**

- 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
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

### 2 Lawfully entering premises

- 2.1** Police officers can lawfully enter non-dwelling premises in the following circumstances:-

**Compliance with the Act** - Under s.305 premises may be entered for police officers to assess compliance with the Act or whether an offence under the Act is being committed.

**Suspect an offence** - Under s.306 premises may be entered if a police officer reasonably suspects an offence is being, or about to be, committed. A justice of the peace<sup>1</sup> may issue a warrant authorising a police officer to enter a premises on which there is reasonable belief that an offence has been committed and that evidence can be found on the premises if certain conditions are met.

**Inspect gambling** - Under s.307 a police officer may enter a premises if they reasonably suspect that facilities for gambling are being, are about to be, or have been provided on the premises. This does not apply if the suspected gambling is private or non-commercial gaming or betting. S.323 states that reasonable force may be used by a police officer to enter premises (in reliance on section 306 or 307).

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<sup>1</sup> In Scotland any reference to a justice of the peace is to be construed as a reference to the sheriff or a justice of the peace.

**Gambling operators licence holders** - Under s.308 police officers may enter a premises if they reasonably believe them to be used by a holder of an operating licence issued by the Gambling Commission for the purpose of determining whether the activities are being carried on in accordance with the operating licence.

**Family entertainment centres** - Under s.309 police officers may enter a family entertainment centre to determine compliance with gaming machine permit requirements.

**Alcohol licensed premises** - Under s.310 a police officer may enter premises in respect of which an on-premises alcohol licence has effect for the purpose of determining if any gaming and bingo being played meets the requirements of the Act, and to ascertain the number and category of gaming machines being made available for use on the premises<sup>2</sup>.

**Prize gaming permit** - Under s.311 police officers may enter premises to determine compliance with prize gaming permits.

**Clubs** - Under s.312 police officers may enter members'/commercial clubs or miners welfare institutes which are subject to a permit to determine if the activities being carried out are being done in accordance with that permit (and not primarily because they suspect a crime is taking place/has taken place).

**Gambling licensed premises** Under s.313 when an application for a premises licence from the local licensing authority is pending, premises may be entered to assess, having regard to the licensing objectives contained in section 1 of the Act, the likely effects of the proposed licensed activity. Licensed premises may also be entered for purposes connected with a review of the licence.

**Temporary use notice** - Under s.315 premises in respect of which a temporary use notice has been given may be entered to assess, having regard to the licensing objectives, the likely effects of the authorised activities, or, when the notice is in effect, to determine whether activities are being carried on in accordance with the notice.

## 3 Powers

3.1 When lawfully on a premises, s.317 permits a police officer to:

- inspect any part of the premises
- question any person on the premises
- require access to any written or electronic record which relate to the reason for entry
- require copies of written or electronic records which relate to the reason for entry
- remove and retain anything if he reasonable believes that it constitutes or contains evidence of the commission of an offence under the Act or the breach of a term or condition of a licence issued under the Act
- anything suspected of constituting an offence under the Act.

It is important to remember that these powers **do not require** 'reasonable suspicion' to exercise them – they are available regardless.

3.2 The [Gambling Act 2005 \(Inspection\) \(Provision of Information\) Regulations 2007](#) provide more information about powers of entry and written records of inspection.

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<sup>2</sup> This does not apply in Scotland in relation to Section 310 (2), however the power of entry to alcohol licensed premises is already afforded to police officers in Scotland under Section 138 of the Licensing (Scotland) Act 2005.

## 4 To note

- 4.1 Under s.318 a police officer can only enter a dwelling with a warrant issued by a justice of the peace.
- 4.2 Under s.320 all powers of entry must be exercised (at a reasonable time).
- 4.3 Under s.321 a police officer must produce evidence of their identity.
- 4.4 Under s 323 a police officer may use reasonable force for the purpose of entering premises.
- 4.5 Under s.326 there is an offence of obstruction, where a person obstructs or fails to co-operate with an officer exercising these powers (punishable by a fine not exceeding level 3 on the standard scale (currently £1,000)).
- 4.6 Further information and advice can be found on our website:
- [Illegal betting in pubs](#)
  - [Gaming machines in pubs](#)
  - [Money laundering in gambling premises](#)
  - [Suggested approach for gaming machine seizures](#)
  - [Templates for assessments at gambling premises](#)
  - [Summary of offences under Gambling Act 2005](#)

## 5 Case studies

### Case Study 1: Illegally sited machines in an unlicensed club

An unlicensed club in the London Borough of Islington failed to respond after warnings to remove some Black Horse gaming machines (pictured right).

In a joint operation the licensing authority and the Metropolitan Police seized the illegally sited machines.

The club owner appeared at Highbury Corner Magistrates Court and pleaded guilty to two offences under the Gambling Act 2005 of s37 (1)(c) Use of premises – making gaming machines available for use.

The owner was fined £1,000 for the offences, £600 in costs and surcharges and a forfeiture order was made for the machines, the gaming slips, other related paraphernalia and the money found in the machines.



### Case Study 2: Illegal poker den in high street shop

Rother District Council, Sussex Police and the Gambling Commission made an unannounced evening visit to a shop in Bexhill's High Street where it was suspected illegal poker was taking place.

Three poker tables were in use with 19 people playing. There was a £250 gaming machine, snacks were available on a side counter, and there was also a small counter with a computer display screen indicating a £20 jackpot prize.

Police identified the owner of the premises as the same person in charge of the poker that evening, but when interviewed he claimed he was conducting private gaming on private premises, as no participation fee was charged, nor did he charge for the food. However, the police and council spoke to the other players and their comments did not support the owner's account. The owner of the shop was also in breach of a number of other licensing and premises conditions. The shop owner closed and vacated the premises the following week.

### **Case Study 3: Fighting organised crime**

A multi-agency operation aimed at raising the awareness among bookmakers of their duties under POCA, resulted in intelligence that an organised crime group were using gambling premises in the area.

One individual gambled/lost in excess of £1m (including recycled winnings) during the previous 12 months.

Joint activity by the police and the Commission resulted in:

For the bookmaker: regulatory action for failing to comply with regulatory requirements (£120,000 payment to a gambling charity).

For the individuals: an arrest warrant for the man was issued.

For the local police: valuable intelligence regarding organised crime, including group members living and visiting bookmakers in the same area, the frequency of their visits to bookmakers and their level of spend.

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**Keeping gambling fair and safe for all**

**[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**