

# Is poker a game of skill or chance? One pub landlord bets his freedom on skill

It is a thorny issue where the stakes are high and even betting men are reluctant to put money on the outcome. So is poker a game of skill or chance? A crown court jury will decide in a legal test case that has repercussions for the exploding popularity of poker games in pubs.

Pub poker is far from the popular image of spirit-swilling men sitting around a table in a smoke-filled backroom after closing time. The test case surrounds a smart-looking bar and restaurant called the Gutshot on Clerkenwell Road in London that doubles as Europe's largest private poker club.

It has 12,000 members, a gourmet dining room and hosts more than 20 tournaments a week, including some where a stake of hundreds of pounds is needed just to sit in.

But the Gutshot does not have a licence to host card games where money is at stake and a levy charged on players. Under the 1968 Gaming Act, games of chance, which poker is defined as along with blackjack and roulette, must be licensed by a local authority. Games classified as forms of skill, including dominoes, cribbage and bridge, are exempt.

When Derek Kelly, who owns the Gutshot, opened the club in 2004 he told the police and the Gaming Board (now the Gambling Commission) but did not apply for a licence. He said: „The only licence that appeared to cover us was a full casino licence but they are very restricted and anyway, that type of licence is for blackjack, roulette and all other games as well.

„We just want to play poker. We cater for the social player

who doesn't want to play for high stakes and doesn't want to be in a gambling environment like a casino. I don't see why people who want to play poker and maybe win a maximum of GBP 50 in a night should have to go to a casino to do so."

He added: „The problem is that the Gaming Act came into force in 1968 when there were a huge amount of illegal casinos and when poker wasn't very popular. Poker has become the biggest card game on the planet in recent years and unfortunately the law hasn't caught up with that."

After a year-long investigation by the Metropolitan Police and the Gambling Commission, Mr Kelly has been charged with breaching the Gaming Act and could face jail if he is found guilty. If he is acquitted, it could open the floodgates for pubs to run their own poker tournaments free of restrictions.

A central part of Mr Kelly's defence is expected to be that poker is a game of skill rather than luck and should be viewed like chess or bridge. „I think the Gambling Commission will have great difficulty in finding anyone who will take the stand to say that poker is not a game of skill," he said.

„In any case, I don't think there is a single game that is purely about skill. Take chess; it comes down to skill but to start a game, you have to toss to decide who starts, so even then there is an element of gambling. How do you decide whether a game is say 43 per cent skill, or 60 per cent?"

The case is to be heard at Snaresbrook Crown Court in south-east London early next year. Insiders in the poker-playing community say there is something of a „free for all" among pubs running unlicensed poker tournaments while the law remains in limbo.

The Commission is determined to crack down on the phenomenon and this week wrote to police, local authorities and licensing trade associations to remind them playing for money is illegal. Phill Brear, its director of operations, said: „We

know that whereas it was hardly on the radar last year we are getting some very significant blips now.

„Poker has become increasingly popular in the past 12 months and people are seeking to cash in on the demand to play. The problem with pub tournaments is that they are unregulated. In a casino you have to give your name and address and the whole thing is monitored.

„In a pub, people may get in over their heads, start playing for very high stakes and be exploited by far more experienced players. This is about protecting people.“

Playing by the rules

\* Under the rules of the 1968 Gaming Act, all „games of chance“ in public where something can be won – money or even just a certificate – must be licensed.

The Gambling Commission (formerly the Gaming Board) enforces the terms of licences issued by local authorities.

Games of chance, as defined under the Act, include bingo, roulette, blackjack and poker. Those that are exempt because they are deemed to be more about skill are cribbage, chess, dominoes and even, in some cases, spot-the-ball competitions.

Card players say the law is unfair because poker is essentially a game of skill and they point out that even chess has an element of chance because it starts with competitors tossing a coin to see who goes first.

A new Gambling Act will come into force next year that will dispense with the need for pubs, clubs and bars to obtain a licence to run events such as a poker tournament.

But there will be a strict maximum on the amount of money or equivalent prizes that can be won, possibly limited to just a few pounds.