
Guidance on the Assessment of Representations under the Gambling Act 2005 in relation to Betting Premises

This information is provided for guidance only and is not intended to be an authoritative statement of the law. The Council acting as the Licensing Authority must determine the application and decide whether or not to accept representations made either for or against an application. In addition to the provisions contained within the Gambling Act (the Act), the authority is obliged to refer to documents and guidance issued by the Gambling Commission (Commission) and referred to below, our published Statement of Policy (Policy) and any relevant case law.

Listed below are the matters that the licensing officer must take into consideration for this application. Please note that not all of the points will necessarily be relevant to your individual representation.

- Where an application has been made, a Responsible Authority or Interested Party may make representations in writing to the Licensing Authority. The Act lists the designated Responsible Authorities (such as the police, Commission etc) and defines Interested Parties as persons who, in the opinion of the Licensing Authority:
 - a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
 - b) have business interests that might be affected by the authorised activities;
 - c) or
 - d) represents persons who satisfy paragraph a) or b).

Only representations from the above categories can be deemed as admissible

- For a representation to be considered relevant it must explain the likely effect of the grant of the premises licence on the three licensing objectives namely:
 - a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - b) ensuring that gambling is conducted in a fair and open way; and
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

In addition representations may also be considered relevant if they raise issues under the Policy, the Commission's guidance or Codes of Practice.

- Any concerns need to be clearly expressed or identified in the body of the representation. There is no absolute requirement for a representor to produce a recorded history of problems at a premises to support their representations, indeed it is recognised that this would not be possible for new premises.

Notwithstanding this fact, case law established through the Licensing Act regime in relation to pubs etc advises that evidence such as speculation and unsubstantiated points cannot be considered.

- Unlike the Licensing Act, the Gambling Act specifically does not include as a licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises must be addressed through other relevant legislation.
- The Act specifies that a Licensing Authority may not have regard to the expected demand for the facilities which are proposed to be provided.
- Any moral objections to gambling cannot be considered as they are not a legally valid reason for rejecting an application for a premises licence.
- Following receipt of representations, a Licensing Authority may determine an application for a premises licence without holding a hearing if it is considered that the representations;
 - a) are vexatious i.e. appear to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification,
 - b) are frivolous i.e. categorised by a lack of seriousness, worth or importance and may carry little or no weight, or
 - c) will certainly not influence the authority's determination of the application i.e. irrelevant, or minor and in relation to which no remedial steps would be warranted or proportionate.

- In relation to premises licences, the Act states that the authority's primary obligation is to aim to permit the use of premises for gambling in so far as it thinks that to do so is:
 - a) in accordance with any relevant code of practice issued by the Gambling Commission;
 - b) in accordance with any relevant guidance issued by the Gambling Commission;
 - c) reasonably consistent with the licensing objectives; and
 - d) in accordance with the authority's statement of licensing policy.

In addition to a premises licence issued by the Licensing Authority, the Commission will licence and control the operator and personnel working in the industry. The Commission plays a leading role in preventing gambling from being a source of crime, by maintaining rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with providing such facilities. Attached to Operator licences are detailed conditions which the Commission enforce in addition to the mandatory and default conditions (see below) enforced by the Licensing Authority.

Should any problems arise in the future in connection with any of the licensing objectives, or it is considered that the premises is not being operated in accordance with any relevant Codes of Practice or guidance, any responsible authority or interested party may ask the Council to review the licence. The procedures to review a licence as set out in the Act represent a key protection for the community where problems associated with the licensing objectives arise after the grant of a licence.

Mandatory conditions – betting premises licence

1. A notice shall be displayed at all entrances to the betting premises stating that no person under the age of 18 will be admitted. The notice should be clearly visible to people entering the premises.
2. There must be no access to betting premises from other premises that undertake a commercial activity (except from other premises with a betting premises licence including tracks). Except where it is from other licensed betting premises, the entrance to a betting shop should be from a street (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage – including passages through enclosed premises such as shopping centres – whether a thoroughfare or not).

3. Any automated telling machine (ATM) made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.
4. No apparatus for making information or any other material available in the form of sounds or visual images may be used on the licensed premises, except where used to communicate:
 - a. information about or coverage of sporting events, including information relating to betting on such events (and incidental information including advertisements); or
 - b. information relating to betting (including results) on any event in connection with which bets may have been effected on the premises. Betting operator-owned TV channels are permitted.
5. No music, dancing or other entertainment is permitted on betting premises. This includes any form of entertainment such as apparatus producing sound or visual images which do not fall within paragraph 4, or machines which do not come within the categories of machine explicitly allowed in betting premises under section 172(8) of the Act.
6. The consumption of alcohol on the premises is prohibited.
7. The only publications that may be sold or made available on the premises are racing periodicals or specialist betting publications.
8. A notice setting out the terms on which a bet may be placed must be displayed in a prominent position on the premises.

Default conditions – betting premises licence

Gambling facilities may not be offered in betting premises between the hours of 10pm on one day and 7am on the next day, on any day.