

Information on the Gambling Act, 2005 for Local Councillors

➤ Councillors and the New Act

For premises licence applications and reviews, Councillors will sit on licensing committees as they do for the Licensing Act, 2003.

For permits, other arrangements may apply depending upon delegation.

Unlike the Licensing Act, 2003 Councillors may make representations without being asked by a resident specifically to do so, although they will have to bear in mind wider issues of bias, prejudice and personal interest. Representations may only be made in relation to premises licences, not permits.

➤ Premises licence Applications

Licence applications will be accepted from the 30 April 2007. All operators must apply for new permissions under the new Act if they wish to operate after 1 September 2007. This also applies to all operators wanting to continue an existing business or start a new operation.

The Council will aim to permit the use of premises for gambling if it believes that the application is:

- In accordance with any relevant Guidance or Code of Practice issued by the Gambling Commission
- Reasonably consistent with the licensing objective
- In accordance with Surrey Heath Borough Council's Statement of Gambling Policy.

➤ Processing Premises Licence Applications

When an application for a premise licence is being made, representations from external parties may be made about the application. All relevant representations as well as other factors will be considered before making a final decision.

Only representations made by a Responsible Authority or interested party will be considered and they must be relevant. The definitions of these two categories differ from those included in the Licensing Act 2003.

Responsible Authorities must be notified by the applicant when an application for a premise licence is being made.

A responsible authority is a public body that can make representation in relation to the application, as well as to an existing licence.

They are:

- A Licensing Authority in England and Wales in whose area the premises is wholly or partly situated
- The Gambling Commission
- A Police Authority

- A Fire and Rescue Authority
- A Planning Authority
- An Environmental Health Authority
- The body designated by the Local Authority to as competent to advise about the protection of children from harm (Social Services etc)
- The HM Revenue and Customs
- Navigation Authorities (Environmental Agency, British Waterways Board, Maritime and Coastguard Agency) and the Secretary of State (for vessels only.)

An Interested Party is a person who:

- Lives sufficiently close to the premises to be affected by the authorised activities
- Has business interests that might be affected by the authorised activities
- Represent people in either of the above groups (e.g. Lawyer, accountant, councillor, community association, chamber of commerce etc).

A premises licence, once issued, will be set for an unlimited duration but the Licensing authority does have the power to review and revoke it at any time, and it may be surrendered or lapsed due to death or bankruptcy of the holder.

The Council may grant premises licence to pleasure boats and floating restaurants, but a vessel going into international waters does not require a licence.

Trains and cars are not entitled to hold a premises licence.

➤ Licence Conditions for Premises Licences

There are a number of conditions attached to premises licence under the new Act, and both the Secretary of State and the Licensing Authority may also attach additional conditions.

Mandatory conditions are set by the Secretary of State. The licensing authority has no power to remove or vary these mandatory conditions.

Default Conditions are attached in the same way as mandatory conditions, however, the licensing authority may remove or replace them.

The Gambling Commission's Guidance suggests that these default conditions are expected to be the industry norm. Whilst licensing authorities may remove default conditions if they think this is appropriate, they must consider carefully before imposing a regime that is stricter than the one that is expected to be the industry norm.

Individual conditions may also be added to a licence.

Unlike the Licensing Act, officers of the Council may make recommendations to add conditions to premises licences without the need to make formal recommendations.

➤ Hearings

The Licensing Committee must consider an application at a hearing if relevant representations are made and not withdrawn, or if the licensing officer proposes that individual conditions should be attached to the licence (either

new conditions or the removal/ variation of default conditions.) Regulations regarding hearings will be published.

The Licensing Committee will usually delegate to a licensing officer to grant or reject an application where no representations are made, unless conditions are to be attached.

➤ Appeals

Appeals against decisions made by the Licensing Authority are made to the Magistrates' Court.