

## **A step by step guide to the licensing process for residents-betting shop applications under Gambling Act 2005**

The Licensing Advice Project (LAP) is funded by Westminster City Council and can provide case-specific advice, information and representation to residents of Westminster at any or all of the stages of the licensing process.

Below is a handy quick reference guide for residents of Westminster to the rights (and responsibilities) of residents under the Gambling Act 2005 regime.

Please note that this guide is necessarily general in nature, and accurate in law as at October 2013. Please also note that some of the information may be specific to practice/procedure in Westminster and may not be applicable in other licensing authority areas.

Please feel free to [contact us](#) if you have any queries at any stage of the process.

### **1. I have become aware of a licensing application.**

- You have the right, if you wish, to make a 'representation'. It is a good idea to find out more information first. If you have received a letter from the City Council, it should contain brief details of the application. You may also have seen a notice at the premises. Representations are usually objections, but they can be in support of the application too.
- It may be that this information is enough for you to make a decision on whether to make a representation or not. If you do not wish to make a representation, you need do nothing more. If you want to find out more about an application, see below.

### **2. How can I find out more about an application?**

- The City Council has a fully searchable Public Licensing Register containing details of applications and licences. It can be accessed [online](#).
- You can sign up for notifications and to track the progress of an individual application.
- If you are not able to access the internet, you can telephone the Council on 020 7641 8549, or contact us and we can do it for you.

There are usually two types of application for betting shops, either for a new licence or to extend the hours of an existing licence (an application can ask for both at the same time). It is important to find out precisely what an application seeks before deciding whether to respond to it.

### **3. I think the application will have an effect on me. What should I do? How do I make my views known?**

- By making a 'relevant representation'.
- In order to be relevant, a representation must address the likely impact of the application, if granted, on the licensing objectives. These are different to the licensing objectives under Licensing Act 2003.
- There are various requirements which need to be complied with (including a strict time limit). The Council is required by law to send a copy of your representation to the Applicant or their representative.
- There is no express provision for representations to be anonymous.

Certain parts of the Council's [Statement of Principles](#) and the Gambling Commission's Guidance to the Act may assist in assuring that your representation is as effective as possible.

#### 4. I have my representation. Where do I send it?

- A representation can be made in the following ways:
  - via email: [gambling@westminster.gov.uk](mailto:gambling@westminster.gov.uk)
  - via [Public Access](#) on the Council's website, where you can make comments on an application by following the instructions and prompts
  - by post to Licensing Applications, Westminster City Council, 4<sup>th</sup> Floor South, 64 Victoria Street, SW1E 6QP
  - by fax to 020 7641 3238
- Representations must be **received** by the Council within 28 days beginning on the day after a valid application is received by the Council. This time limit cannot be extended and representations **received** after this period cannot be taken into account as relevant representations.

We would therefore advise submitting a representation either by email or via [Public Access](#), as receipt is almost instantaneous and you will receive an acknowledgment.

#### 5. The Applicant's solicitors have contacted me. What do I do?

- The Council is required by law to send a copy of your representation to the Applicant or the Applicant's representatives. Sometimes they may contact you to discuss your concerns.
- Making a representation means that you become a party to the application, which brings with it certain rights and responsibilities. For example, you have the right to attend any subsequent [hearing](#) and address the Sub-Committee which decides on the application.
- Sometimes the Applicant's representatives may suggest a meeting in order to discuss your concerns and examine ways in which they can be resolved. If you are not able or willing to meet, it is still a good idea to respond to the invitation saying so.

- Sometimes the Applicant's representatives may propose amending the application to e.g. reduce the hours sought, or to make the licence subject to conditions which may address your concerns. We are happy to advise you on these issues.

There can be scope for a useful dialogue between parties prior to any hearing to see if any matters can be resolved. This ensures that the hearing is as a streamlined as possible and focuses only on matters still in dispute.

#### **6. I have received a letter from the Council notifying me of a hearing date.**

- Anyone who has made a relevant representation (and not subsequently withdrawn it) should be notified of the hearing date at least 10 working days before the hearing.
- You will be asked to confirm whether you wish to attend the hearing, whether you will be represented, whether you wish anyone else to speak on your behalf (e.g. a witness who is also concerned about the application but has not made a representation), and whether you consider a hearing to be necessary.
- You should respond at least 5 working days before the hearing.
- The Council may also tell you about any changes to the application, and again it is important to respond confirming whether your representation remains.
- If you want to submit any further evidence in support of your representation, you should do it by the latest on the Wednesday in the week before the hearing to ensure that it will be included in the Report to Sub-Committee (see below).

#### **7. I have told the Council that I want to attend the hearing, and they have sent me a bundle of papers.**

- This will be the Report to Sub-Committee, which contains the relevant documents which will be before the Sub-Committee at the hearing.
- The Sub-Committee may take into account further evidence produced up until the day before the hearing (or on the day of the hearing with the consent of the parties) but in the interests of fairness any further evidence should be submitted as soon as possible, to allow the parties (and the Sub-Committee) sufficient time to consider it prior to the hearing.
- Equally, if your concerns have been addressed and you are happy to withdraw your representation, it is important to tell the Council. Otherwise a hearing may have to go ahead anyway.

#### **8. I have read the Report and would like to attend the hearing. Do I need to be represented?**

- Anyone who has made a relevant representation is entitled to attend and/or be represented at the hearing, and address the Sub-Committee.
- In doing so, you can expand on your representation, but should not introduce entirely new matters.
- Each party is permitted an equal amount of time to speak. However, where there are numerous residents who will each be making the same points, it is unlikely to advance your case if each individual speaks in turn and repeats the same things. In these circumstances, it is advisable that one or two people are appointed as spokespersons.

#### **9. What format do the hearings take?**

- Hearings are designed to be accessible and fair to residents and those who are not legally qualified, and should take the format of a discussion led by the Sub-Committee. It is not a court of law, although there are obviously procedural requirements.
- Matters can change quickly during the course of a hearing. If in doubt as to what is happening, ask for clarification.
- We have a [guide to a licensing hearing](#). Although this relates specifically to Licensing Act 2003 hearings, the procedure for Gambling Act 2005 applications is very similar.

#### **10. How will I know what has been decided?**

- The decision of the Sub-Committee is usually announced immediately following the hearing.
- You will subsequently be sent the formal written decision, with reasons.

#### **11. The application was granted, and I am not happy with the decision. Can I appeal?**

- There is a right of appeal for any party to the application. The appeal is by way of complaint to the Magistrates' Court. The Respondents to an appeal by a resident/s will be the Council and the Applicant.
- It is important to think very carefully about an appeal as there are potential costs implications. There is also considerable case law in the higher courts as to the approach to be taken by the Magistrates' Court when considering appeals from Council decisions.
- It is therefore very important to take legal advice before embarking on an appeal.

In addition, there is a remedy for residents where an application is granted and the feared problems do in fact arise. Residents have the right to apply to the Council to ['review'](#) a [premises licence](#). The requirements and procedure are different to the 'review' procedure under Licensing Act 2003. We can advise you on this if necessary.

**12. The application was turned down, but I have heard that the Applicant has appealed. Do I need to do anything?**

- The appeal is against the Council, not against the objectors. The Council is very experienced at handling these appeals and will contact you in due course regarding arrangements for the Court hearing.
- In general, it is a good idea to keep a note of any problems you experience with the operation of the premises in the meantime.

**13. I would like to keep up to date with what is happening in my area with licence applications.**

- The Council produces a weekly bulletin each Friday called 'Licensing News', which details all Gambling Act applications pending in the consultation period i.e. those applications for which representations can still be accepted. You can ask to be put on the mailing list by emailing [premiseslicensing@westminster.gov.uk](mailto:premiseslicensing@westminster.gov.uk)
- Licensing News also contains a summary of the outcome of the hearings held that week, details of relevant pending Licensing Act 2003 applications, details of [Temporary Event Notice](#) (TEN) applications made that week, and applications for 'sexual entertainment venues' and 'sex establishments' which are in the consultation period.
- Additionally, the [Public Access](#) webpage on the Council's website enables you to receive email alerts on properties or streets you are interested in. You will need to register. There is a useful [document](#) on the Council's website to guide you through the process. You can also [contact us](#) for help if you wish.
- Once you have registered, you can also track an application on which you have made a representation, and you will be updated when the status of the application changes.

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