



GUIDANCE FOR PREMISE LICENCE REVIEW APPLICATIONS

Applying to review a Premises licence under the Gambling Act 2005

The Gambling Act 2005 is the piece of legislation under which commercial gambling premises are now regulated. In addition to the national gambling and betting sector regulator, the Gambling Commission, local (licensing) authorities have statutory responsibilities in respect of premises-based gambling activities occurring within their boroughs or districts.

While the regulatory bodies will use their powers to ensure that licensed premises operate in accordance with the provisions of the law and with any conditions attached to their licence(s), there may be occasions when concerns exist over the operation of a premises which cannot be resolved either through mediation or enforcement. In those situations, a responsible authority or an interested party may request that a licence is reviewed.

Types of licence

The main responsibility of the licensing authority is to process applications for 'Premises Licences' for premises offering higher-value gambling activities. In total, there are 6 categories of premises licence available:

- Casino Premises Licences (none in Milton Keynes)
- Bingo Premises Licences (for bingo halls);
- Betting (track) Premises Licences (for sports grounds and racecourses, offering peripheral betting for example Stadium MK);
- Betting (other) Premises Licences (for other betting establishments, such as high street shops, betting shops);
- Adult Gaming Centre Premises Licences (for amusement arcades, with over-18 access only);
- Family Entertainment Centre Premises Licences (for amusement arcades open to all).

In addition, the authority also issues permits for lower-value gaming activities (such as making gaming machines available for use within pubs and clubs, and facilitating low-stakes prize gaming) and registers non-commercial societies to promote small lotteries. Although the review procedures outlined in this

document do not apply to these authorisations, the authority may be able to take action if there are concerns about them. Please contact us directly for further information.

How to apply

Before applying for a review, interested parties may want to consider whether their concern(s) could be effectively dealt with outside of the formal review process. This could involve, for example:

- Talking to the licence holder to determine whether there are any steps they may be willing to take to rectify the situation;
- Asking the local authority licensing department or other responsible authorities to talk to the licence holder on your behalf;
- Ask your local MP or Councillor to speak to the licence holder on your behalf;
- Talking to the relevant “responsible authority” (e.g. the police in relation to crime and disorder, or the Gambling Commission in relation to the fairness and openness objective) to determine whether there is other legislation that could help resolve the issue.
- A licensing authority may reject the review application if it is satisfied that the grounds for review:
- Are not relevant to a Code of Practice or guidance published by the Gambling Commission;
- Are not relevant to the Statement of Principals published by the licensing authority;

Do not relate to one or more of the 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; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- Are frivolous, vexatious or repetitious; or
- Will certainly not cause the authority to wish to take any action.

It should also be noted that the licensing authority cannot take action under the Gambling Act 2005 in respect of the following matters. If there are concerns over these matters, it is advisable to contact the appropriate responsible authority, as action may be taken under different legislation:

- The physical safety of members of the public – for example, fire safety, or structural maintenance (Fire authority, Health & Safety, Planning);
- Any incidents of public nuisance – e.g. noise, litter, light pollution (Environmental Health, Planning);
- Incidents of crime or disorder occurring in the vicinity of a licensed premises, but not connected to the operation of that premises (Police);
- A perceived excessive number of licensed gambling premises in a particular area – the licensing authority may not respond to any issues surrounding demand for gambling activities (Planning).

What does “frivolous” and “vexatious” mean?

“Frivolous” or “vexatious” will bear their ordinary meaning. Whether representations are frivolous or vexatious will be for the licensing authority to determine. For example, the licensing authority might find the representations were vexatious if they arise because of disputes between rival businesses or frivolous if they clearly lacked seriousness.

What does “repetitious” mean?

A “repetitious” representation is one that is identical or substantially similar to:

- A ground for review in an earlier application, which has already been determined (the licensing authority’s “register of licences” will include all applications for reviews made to them in the past)
- Representations considered by the licensing authority when the premises licence was first granted
- Representations made when the application for the premises licence was first made and were excluded because of the prior issue of a provisional statement
- In addition to the above grounds, a reasonable interval has not elapsed since any earlier review or the grant of the licence

The review process is not intended to be used simply as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. However, reviews will be considered in cases where there are compelling circumstances (e.g. where new problems have arisen).

Interested parties cannot apply for a review anonymously. This is because, for example, the licensing authority needs to be satisfied that the person who wants the review lives sufficiently close to the premises to be affected by the authorised activities, and is not being vexatious. Similarly, it is important that the licence holder is also able to respond to an application for a review, for example, if they believe the applicant does not live sufficiently close to the premises to be

affected. If interested parties are concerned about possible intimidation, they could consider asking the police, or another appropriate responsible authority to apply for a review on their behalf.

Operating Licences & Personal Licences

It is worth noting that premises licences issued by the local authority are one of three licences that gambling operators must hold. If there are concerns about the fitness of a person or organisation operating gambling premises, as opposed to concerns directly relating to a specific premises, it may be more appropriate to speak with the national regulator, the Gambling Commission, about the Operating and Personal licences that have been issued to the person or organisation in question. The Commission can be contacted by telephone on 0121 230 6666, or via their website, www.gamblingcommission.gov.uk.

Things you may want to consider when seeking a review:

- It may be helpful to get the backing of other people affected by the authorised activities carried on at the premises, or businesses affected by the authorised activities, or “responsible authorities”.
- Look at your licensing authority’s official records about the premises, kept in their ‘licensing register’. This will show you if other people have made representations, or asked for a review of a premises in the past
- If you are thinking of raising a petition, it is important to ensure that the licensing authority can determine whether all the signatories are sufficiently close to be affected by the premises. So, including their addresses and indicating clearly what grounds they are all asking for a review would be helpful. It would also help if a spokesperson could volunteer to receive details about the hearings etc. from the licensing authority and may be willing to speak on behalf of the petitioners at the hearing.
- If you want to ask another person such as an MP or local Councillor to represent you at the review, it is advisable to make such a request in writing so that the individual can demonstrate he or she was asked. It will be a matter for the MP or Councillor to decide whether they should agree to your request. They are not obliged to do so, however, most elected representatives are happy to help residents with this sort of issue, and there is no requirement for them to live in the vicinity of the premises in question for them to be able to make representations on behalf of residents that do. It should be noted that Councillors who are part of the licensing committee hearing the application will not be able to discuss the application with you outside the formal hearing, so it is suggested that you do not approach them to try to.
- For individual incidents, try to get as much information as possible about any official response (e.g. – police being called out) You may also be able

to back up your application with data such as crime statistics. However, it should be noted that conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and his staff or agents, but can directly impact on the behaviour of those under the licensee's direction when on his premises or in the immediate vicinity of the premises as they seek to enter or leave.

- It is important to be able to back up your claims. You could do this by keeping a diary over a period of time, for example. Sound or video recordings may also be helpful. It may also be a while before any hearing, so it is good to keep a clear record.
- Residents or businesses applying for a review following a particular incident should be cautious, as a licensee may argue that this was a one off problem that can be rectified without a review.
- Have a good idea how you'd like the situation to be resolved.

Filling in the form

Application forms are available for download from our website, at www.licensing.gov.uk/gambling, or can be requested on 01908 252800 or by email to licensing@milton-keynes.gov.uk. Please ensure that you have the appropriate application form before beginning to complete it.

PART 1 – Applicant details

After giving the full name and an appropriate address of the applicant, you are asked to confirm whether you are applying as a 'responsible authority' or as an 'interested party'. Responsible authorities are designated statutory bodies, with some form of regulatory control over the premises. Interested parties are:

- A person living sufficiently close to a premises to be affected by its authorised activities;
- A person with business interests affected by the authorised activities of a premises;
- A person who legitimately represents either of the above. If applying as an interested party, you should state under which of the above points you qualify, and offer any proof necessary to clarify and confirm this. If the application is being made jointly by more than one person, the details requested in this part should be provided by every applicant, using additional pages.

PART 2 – Premises details

This section asks for the trading name, address and some other details of the premises concerned in the review. If the premises has no postal address you should describe the location of the premises or give the ordnance survey map reference.

You are also asked to give the type of premises licence in force, the licence number, and the name of the person or organisation that holds the licence. While this information should be available on the “Summary” of the licence, which will be displayed within the premises, you may instead wish to request these details from the licensing department at your local authority.

PARTS 3 & 4 – Details of grounds, and Supporting documents

You should state the ground(s) for review, and provide as much information as possible to support the application. You may use extra sheets of paper if necessary. Details may include, for example, dates that problems occurred and how the problem affected you. If you wish to attach any documents or other evidentiary material, please list this within Part 4 of the application form. If there are any steps that you believe should be taken by the licensing authority as a result of the review application, please outline them, and explain why you consider those steps to be appropriate and proportionate.

PART 5 – Declarations and Checklist

By ticking this list you are making a declaration that you have carried out the listed actions. The person or body requesting the review must notify the holder of the premises licence and each “responsible authority” of their request, by sending them notification of the application, on the same day as the application is given to the licensing authority. Responsible authorities can then, if they wish, join or back up your application for review, or use the opportunity to make their own application for a review on different grounds. The licensing authority also has to advertise the review to enable other “interested parties” to join it. A format has been prescribed for the notification, and a template for this is included in this application pack. Responsible authorities include the following, for the area in which the premises are situated:

- The Gambling Commission;
- The chief officer of police;
- The fire authority;
- The health and safety authority;
- The local planning authority;
- The environmental health authority;

- HM Revenues & Customs;
- The local child protection body;
- And – in respect of vessels only - i) The Environment Agency; ii) The British Waterways Board; iii) the Port of London Authority; and iv) the Secretary of State.

Signatures

The application form must be signed. An applicant's agent (for example a solicitor) may sign the form on their behalf, provided they have authority to do so. Where there is more than one applicant, all applicants, or their respective agents, must sign the form.

What happens after a request for a review has been made?

The licensing authority must advertise requests for a review of a licence. They will do this by displaying a notice at or near the premises that is subject to review, and on the website of the licensing authority, for 28 consecutive days starting on the 8th day after the application is given to them. Other interested parties and responsible authorities then have this period of 28 consecutive days starting on the 8th day after the application was given to make representations about the review.

If the request for a review is not rejected then the licensing authority must hold a hearing at the licensing authority to consider the application, unless all parties agree that this is unnecessary. For example, the licensing authority may offer to try to resolve matters via a negotiated agreement outside a formal hearing. You will need to decide if this is appropriate for you but you can, of course, insist upon the hearing. The licensing authority will write to you with the date and time of the hearing and will inform you of the procedure to be followed at the hearing.

Hearings

Hearings will generally be held in public, unless the licensing authority is satisfied that it is necessary to hold all, or part of the hearing in private, having regard to any unfairness to a party that may arise from holding a public hearing and the need to protect the commercial and other legitimate interests of a party. The licensing authority shall ensure that a record is taken of the hearing. Hearings will normally take the form of a discussion and will be led by the licensing authority, which will consist of three local authority elected councillors (this will be the licensing sub-committee drawn from a full licensing committee). The licensing authority will explain the procedure to be followed. It will determine any request for additional persons to appear at the hearing. It will consider evidence produced in support before the hearing and can consider evidence produced by a party at the hearing, but only if all parties agree.

Further evidence can also be produced if this was sought for clarification of an issue by the authority before the hearing. Cross-examination of another party during a hearing is not allowed, unless the licensing authority thinks it necessary. The parties are entitled to address the authority and will be allowed equal time to address the authority and, if they have been given permission by the authority to do so, they will be given equal time to ask any questions of any other party. The authority will disregard any information it considers to be irrelevant. It is important that you consider what you are going to say at the hearing, as the licence holder and the committee will have seen your application for review, and may get the chance to question what you are saying.

N.B. - A hearing can still go ahead in the absence of any party (e.g. – applicant, licence-holder or interested party)

What happens after a hearing?

If no decision is made at the hearing, the committee has a maximum of 5 days from the day or the last day of the hearing to come to a decision.

Following a review, a licensing authority may:

- Decide that no action is necessary and leave the licence as it is;
- Add, remove or amend a 'default' condition (relating to trading times);
- Add, remove or amend any other condition deemed necessary;
- Suspend the licence for a period of up to 3 months;
- Revoke the licence. Written confirmation of the decision will be sent to all parties following the hearing, together with information about any right of appeal against the decision that was made.

Further information and assistance

If you require any further information regarding the new Premises licences, or assistance in completing your application, please contact the Licensing Department using the details given below:

licensing@milton-keynes.gov.uk
www.milton-keynes.gov.uk/gambling

Tel: 01908 252800

Revised February 2012