
Gambling Act 2005

Guidance Note

**Guidance on how to
make a representation
about a Gambling Act
application.**

Quick reference guide

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Contact Details

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Leeds City Council
Civic Hall
Leeds
LS1 1UR**

Phone: 0113 247 4095

Fax: 0113 224 3885

Website: www.leeds.gov.uk/licensing

E-mail:

entertainment.licensing@leeds.gov.uk

SECTION 1 - The purpose of this guidance

The purpose of this guidance is to offer assistance to members of the public or businesses wishing to make representations (objections) about applications for new or varied gambling premises licences under the Gambling Act 2005 (the Act). Eg. bookmakers, amusement arcades or bingo halls.

This guidance explains who is entitled to make representations and how such representations should be made. It also explains the process which follows once representations have been received by the council.

Further details about the Gambling Act can be found on the council website www.leeds.gov.uk/licensing or the website for the Department for Culture, Media and Sport www.dcms.gov.uk

SECTION 2 - The Gambling Act 2005

2.1 The licensing objectives

The Gambling Act 2005 contains three licensing objectives which are central to the regulatory regime created by the Act. They are:

- 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.

2.2 The Licensing Framework

Under the Gambling Act 2005 Leeds City Council is the Licensing Authority for the Leeds district. In this document, unless otherwise stated, any reference to the council is to the Leeds Licensing Authority.

Any business that wishes to operate gambling premises in Leeds needs a number of different licences before they are able to open. Firstly a gambling business must approach the Gambling Commission (the national gambling regulator) for a gambling operating licence and however many personal licences they will require.

These licence applications investigate the suitability of the company and its staff to offer gambling services. Financial and criminal records checks form part of the screening process at this stage to ensure the integrity of the business. Once the company has made these applications they must then approach the council for one or more premises licences depending on how many individual gambling premises they wish to operate. It is these premises licences that can be the subject of public representations (objections).

2.3 On what basis will the council make its decision?

In carrying out its licensing functions the council is bound to make its decisions in line with the Act and shall aim to permit the use of premises for gambling in so far as it thinks the use is:

- In accordance with any code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives (subject to the first two bullet points above)
- In accordance with our licensing policy published under the Gambling Act (subject to the first two bullet points above)

These principles are important as they form the basis of what can be and what can not be accepted as a relevant representation.

2.4 Leeds Gambling Act 2005 - Statement of Licensing Policy

In line with Section 349 of the Act the council has published a 'Statement of Licensing Policy' which sets out how we will approach our functions under the Act.

This document is available on the Leeds City Council website at www.leeds.gov.uk/licensing or you can request a paper copy from the Entertainment Licensing Section.

2.5 Responsible Authorities

Responsible authorities are agencies that have been given certain powers under the Act. Applicants for premises licences must send a notice of their applications to each of the responsible authorities. These agencies are then entitled to make representations about the application.

SECTION 3 - How are applications advertised?

Information about applications for new premises licences, applications for provisional statements and applications to vary existing gambling premises must be made public by the applicant publishing details about their application.

Firstly a public notice must be displayed at the premises for 28 days. This notice period starts on the day on which the applicant made their application to the council. (At Section 12 of this note you will find a sample notice)

You will recognise this notice as it will be on white paper, in a prominent place at the premises, ie in the window of the bookmakers or on a lamp post in the area.

Applicants must also publish a notice about their application in a local newspaper that covers the area in which their premises, is situated. This notice will appear within 10 working days of the applicant making their application to the council.

Both these notices will summarise the details of the application and will state the last day on which objections can be made about the application to the council. You will find that these notices will contain only basic information about the application. For this reason, if you have any concerns, it may be appropriate for you to contact ourselves and arrange a time to inspect the complete application at our city centre office. (Opening hours Monday – Friday 9am to 4pm.) Alternatively we can also answer any queries you may have over the telephone or by email.

The council also publishes detailed information about each application on the council website. See www.leeds.gov.uk/licensing

SECTION 4 - Who is able to make objections?

The Act allows certain individuals, and groups, to make representations about licensing applications. A representation is a reason why the application should not be granted in its current form, or should not be granted at all.

Representations can be made in writing by an interested party or responsible authority. Information about the role of the responsible authorities is covered at para 2.5 above.

An interested party is someone who

- lives sufficiently close to the premises to be likely to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents persons falling in the categories set out above eg.
 - o A trade body or residents association may make representations on behalf of local businesses or residents
 - o A ward, town or parish councillor may also make representations.

Upon receiving a representation, the first thing the council will do is determine if the representation has been made by either a responsible authority or an interested party.

SECTION 5 - On what grounds can I make a relevant representation?

Assuming you fulfil the criteria detailed in the previous section the council will accept your representation however the council must then decide if it is relevant.

Generally in order to be relevant your objection should relate to one or more of the three licensing objectives of:

- 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.

In addition you must ensure your representation is not vexatious, or frivolous. A frivolous representation is one which is not a serious representation. A vexatious representation is one which is made to annoy or upset the applicant and for no other purposes. The council is also unable to accept representations that would certainly not influence the determination of the application. Two items which the Act says the council must not consider and hence would certainly not influence the determination of the application are:

- Whether there is demand for the proposed facilities
- Whether the proposal is likely to be permitted under the relevant planning and building legislation

So a representation which says ‘we already have enough bingo halls/betting shops etc in the area’ would be one that the Licensing Authority would not take into account. A representation which says ‘this shop only has planning permission for use as a retail unit not as a betting shop’ would be one that the council would not take into account. Both of these things are matters which would certainly not influence the authority’s decision.

In summary the only representations that are likely to be relevant are those that:

- relate to the licensing objectives, or that raise issues contained in the council’s licensing policy statement, or in the Gambling Commission’s guidance or codes of practice and
- are not about planning or demand issues
- are not frivolous or vexatious.

SECTION 6 - Example representations

Example 1 ✓

✓	There is an application for an adult gaming centre 3 doors away from my house. I am worried about the possibility of local children accessing the premises as it is where the bus stop is located for school buses.
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Reasons as to why this would be valid:

- The Gambling Commission Code of Practice says

Licensees must not deliberately make their products of particular appeal to children or young people, for example by reflecting or being associated with youth culture. In premises restricted to adults, service should be refused in any circumstances where any adult is accompanied by a child or young person.

Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling. This should include appropriate training which must cover the legal requirements on returning stakes and not paying prizes to underage customers.

- The council’s licensing policy covers the protection of children and says

This licensing objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children). The council will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

Although the Act specifies that only persons aged 18 or over may enter an Adult Gaming Centre and makes it a condition of the licence that a notice stating such must be displayed at the entrance to the premises, a representation such as that above would lead the council to look very carefully at the application to see what measures are proposed about supervision of entrances etc. If it cannot be satisfied that the measures are adequate it may impose conditions or even refuse the licence outright.

Example 2 x

X	There is an application to build a bingo hall next to my house. It will have a large car park and I am worried about the noise created by people coming and going.
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Reasons as to why this would be invalid:

The Gambling Commission's guidance says that the following example of a representation would not be likely to be relevant.

'that the premises will cause crowds of people to congregate in one area which will be noisy or a nuisance'

One of the licensing objectives is the prevention of crime and disorder. The guidance makes it clear that disorder is activity which is more serious and disruptive than nuisance.

A representation about noise in the car park is not likely to influence the council's decision on the application.

SECTION 7 -

What if I have other concerns which aren't relevant?

There may be other areas of legislation through which your representation could be raised and the council would still urge you to express your concerns through any appropriate channels.

For example, looking at example 2 above it would be likely that a new bingo hall would also require a premises licence under the Licensing Act 2003 in order to make alcohol sales. The 'prevention of public nuisance' is a legitimate licensing objective under the Licensing Act 2003 and the same representation detailed above would be relevant if submitted in relation to the applicants alcohol premises licence application.

Similarly if you have any other concerns about a gambling premises licence application but you are unsure if your concerns will be relevant we would urge

you to contact your local Ward Councillor or ourselves for advice on any other possible means of recourse.

SECTION 8 - How do I make a representation?

Relevant representations must be made in writing and submitted to the council. You must include your name and address when making this representation. This will help the council decide whether or not you live sufficiently close to the premises to be likely to be affected by the authorised activities. Please note that your representation will form part of a public document and will be accessible by the applicant. If you have concerns about this, then you may wish to consider asking a representative to submit the representation on your behalf. See section 9 below.

Your representation must reach us within the 28 day notice period. Late representations will not be considered. If you are unsure when the application was made, you can check with the council or look at the advertising of the application.

SECTION 9 - Can I ask somebody to make an application on my behalf?

If you want to ask another person such as an MP or local Councillor to make a representation on your behalf then you are able to do so as long as they agree. It is best to make such a request in writing so that the individual can show he or she was asked. It will be up to the MP or Councillor to decide whether they should agree to your request. They do not have to do so, however, most elected representatives are happy to help residents with this sort of issue, and there is no need for them to live near the premises in question for them to be able to make representations on behalf of residents that do.

SECTION 10- What happens next?

If relevant representations are made about an application, the council will hold a hearing to consider them. If a hearing is required you will be invited to attend to address the Licensing Committee to reiterate your representation. The council has established a Licensing Committee of 15 Councillors. This Committee has created Licensing Sub Committees of 3 Councillors. The Sub Committee will be responsible for considering representations at a hearing.

Prior to the hearing all interested parties are sent a 'notice of hearing document' which explains what will happen at the hearing. Any persons or organisations who made representations (which were accepted) about the licensing application will be sent a copy of this document.

**SECTION 11 -
Contact details – responsible authorities**

Address	Contacts
<p>The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP</p>	<p>Tel: 0121 230 6666 Fax: 0121 233 1096 info@gamblingcommission.gov.uk</p>
<p>West Yorkshire Police Robert Patterson Leeds District Licensing Officer Millgarth Police Station Leeds LS2 7HX</p>	<p>T: 0113 241 4023</p>
<p>Leeds City Council Development Department Leonardo Building, 2 Rossington Street Leeds LS2 8HD</p>	<p>T: 0113 247 8000</p>
<p>Leeds Safe Guarding Children Board Merrion House 110 Merrion Centre Leeds LS2 8QB</p>	<p>T: 0113 247 8543 administrator@leedslscb.org.uk</p>
<p>West Yorkshire Fire and Rescue Service District Fire Safety Officer Leeds Fire Station Kirkstall Road Leeds LS3 1NF</p>	<p>T: 0113 244 0302</p>
<p>Leeds City Council - Environmental Health Services Millshaw Office Millshaw Park Way Churwell Leeds LS11 0LS</p>	<p>T: 0113 247 6026</p>
<p>HM Revenue and Customs National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ</p>	<p>T:0141 555 3633 nru.betting&gaming@hmrc.gsi.gov.uk</p>
<p>NB: Please note for the purposes of the Act the Licensing Authority is also a responsible authority.</p> <p>Leeds City Council Entertainment Licensing Section Civic Hall Leeds LS1 1UR T: 0113 247 4095 / F: 0113 224 3885 E: entertainment.licensing@leeds.gov.uk www.leeds.gov.uk/licensing</p>	

**SECTION 12 -
Example notice of application**

This notice is for illustrative purposes only. Actual notices must comply with the relevant regulations.



GNOTICE1

**NOTICE OF APPLICATION FOR A PREMISES LICENCE UNDER THE
GAMBLING ACT 2005**

Notice is hereby given that:

Leeds Bookies Ltd

Of the following address:

Leeds Bookies Ltd
Gambling House
Leeds Road
Leeds
LS1 5PA

Is/~~are~~ applying for a Betting Premises Licence under section 159 of the Gambling Act 2005.

The application relates to the following premises:

Leeds Bookies
125 Leeds Road
Leeds
LS1 5PZ

The application has been made to:

Entertainment Licensing
Leeds City Council
Civic Hall
Leeds, LS1 1UR
T:0113 247 4095 E: entertainment.licensing@leeds.gov.uk
W: www.leeds.gov.uk/licensing

Information about the application is available from the licensing authority (at the above address) including the arrangements for viewing the details of the application.

Any of the following persons may make representations in writing to the licensing authority about the application:

- A person who lives sufficiently close to the premises to be likely to be affected by the authorised activities
- A person who has business interests that might be affected by the authorised activities
- A person who represents someone in any of the above two categories.

Any representations must be made by the following date: **28th September 2007**

It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.

**SECTION 13 –
Gaming machines**

This section describes the categories of gaming machine as set out in the Act (and in regulations) and the number of such machines that may be permitted in premises that hold a gambling premises licence.

- Table 1 below sets out the different categories of machines with the maximum stakes and prizes that will apply.
- Table 2 below shows the maximum number of machines permitted and in the case of the large casino the ratios between tables and machines.

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£35
D	10p or 30p when non monetary prize	£5 cash or £8 non monetary prize

Table 1

Premises Type	Machine category							
	A	B1	B2	B3	B4	C	D	
Pre-2005 Act Casino		Maximum of 20 machines categories B to D or C or D machines instead						
Betting premises Licence and track betting premises licences.			Maximum of 4 machines categories B2 to D					
Bingo Premises				Maximum of 4 machines in category B3 of B4		No limit C or D machines		
Adult Gaming Centre				Maximum of 4 machines in category B3 of B4		No limit C or D machines		
Family entertainment centre (with premises licence)						No limit C or D machines		

Table 2

This document should be used as a guidance tool. Only the courts can give an authoritative opinion on statute law.

Every effort has been made to ensure this document is both comprehensive and accurate but in an attempt to simplify the law omissions have been made. Please refer to the Gambling Act 2005 and associated regulations for full details of the law.

You should seek you own legal advice on the matters raised in this guidance note.

Prepared May 2007