



BRIEFING PAPER

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Betting shops: licensing and planning issues

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Summary

There are 8,502 betting shops in Great Britain (Gambling Commission [statistics](#), November 2017).

Under the *Gambling Act 2005*, a betting shop needs an operating licence, issued by the [Gambling Commission](#), and a premises licence, issued by the local licensing authority. Unless it is a very small operation, personal licences, also issued by the Gambling Commission, will be needed for certain staff.

Objections can be raised against an application for a new premises licence by interested parties (e.g. people living close by) and responsible authorities (e.g. the police). It is also possible to trigger a review of an existing licence.

The only objections that are likely to be relevant are those that relate to the Gambling Act's licensing objectives, or that raise issues under a licensing policy statement or the Gambling Commission's [guidance](#) or [codes of practice](#).

The Act's three licensing objectives 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

Concerns have been expressed too about local planning authorities' ability to control the number of betting shops on the high street. The rules on permitted development - under which buildings with a range of high street uses could be converted into betting shops with no planning permission being required – were changed in April 2015. Change of use to a betting shop now requires planning permission, but concerns remain that clusters of betting shops, particularly in deprived areas, affect high street vitality.

Related Library Briefing Paper: [Fixed odds betting terminals](#) (CBP 6946).

1. Operating licences

An application for an [operating licence](#) must be submitted to the Gambling Commission before a premises licence can be applied for.¹

In assessing an application for an operating licence, the Commission will consider the suitability of the applicant to carry out the licensed activities and whether the applicant is likely to uphold the licensing objectives that underpin the 2005 Act. These 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 gambling²

Before making a decision, the Commission will consider an applicant's identity; financial circumstances; honesty and trustworthiness; competence (i.e. experience, expertise, qualifications and history); and criminality (i.e. criminal record of the applicant).³

The Commission may decide to grant all or part of a licence application. It can also issue a licence with extra conditions attached.

If an application is refused, the Commission's decision can be appealed. A final appeal can be made to the First-tier Tribunal (Gambling).⁴

Once issued, an operating licence lasts indefinitely unless it is revoked (after a review or failure to pay fees); suspended; surrendered; lapses (e.g. after bankruptcy or death); or forfeited (e.g. if a court orders after conviction of a relevant offence).⁵

Further information on operating licences is available in Gambling Commission [guidance](#)⁶ and from the Commission's [website](#).

1.1 Review of an existing licence

The Gambling Commission's compliance activity is designed to ensure that a licensee remains suitable to hold a licence and that they act in accordance with the conditions of the licence, the licensing objectives, and the requirements of the 2005 Act and related codes of practice.

An operating licence can be reviewed if the Commission:

- suspects that a licence condition may have been breached

¹ Gambling Commission website: [Premises licence](#) [accessed 19 January 2018]

² *Gambling Act 2005* s1

³ Gambling Commission website: [How do I apply for an operating licence?](#) [accessed 19 January 2018]

⁴ Ibid

⁵ Ibid

⁶ Gambling Commission, [Guidance to licensing authorities](#), 5th edition, updated September 2016, paras 2.4-2.11

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- believes that the licence holder, or any person connected with the gambling activities, has been convicted of a relevant offence in Great Britain or abroad
- suspects that the licence holder may be unsuitable to perform the licensed activities
- thinks a review would be appropriate

Following a licence review, the Commission may decide that no further action is required. It may decide that further formal action would not be a proportionate response and instead issue advice as to a licensee's future conduct.⁷ Or it may take any of the following steps:

- issue a warning to the licence holder
- attach an additional condition to the licence or remove/amend an existing condition
- suspend the licence
- revoke the licence
- impose a financial penalty following a breach of a licence condition⁸

⁷ Gambling Commission, *Guidance on regulatory decision making after a licence review*, November 2009, para 3.3

⁸ *Ibid*

2. Premises licences

A premises licence, issued by the local licensing authority, is required for a betting shop.

Demand for gaming premises

Prior to the *Gambling Act 2005*, the issuing of premises licences was subject to a “demand test”.⁹ The *Gambling Review Report* (July 2001) claimed that this restricted new trade and that demand was best assessed by potential operators on commercial grounds alone.¹⁰ The 2005 Act removed the demand test. Section 153 of the Act states that a licensing authority “shall aim to permit the use of premises for gambling”, providing they think it in accordance with the relevant codes of practice and guidance issued by the Gambling Commission, and that the application is consistent with the “licensing objectives” laid down in the Act and the authority’s published statement of licensing policy. The latter is required under section 349 of the Act.¹¹

In its [guidance](#) to licensing authorities, the Gambling Commission makes clear that each licence application should be “considered on its merits without regard to demand”, that a licensing authority’s statement of policy should reflect the “aim to permit”, and “should not comment on whether there is demand for gambling premises”.¹²

However, a statement of policy *may* comment on the location of premises and the general principles it will apply in considering the location so far as it relates to the licensing objectives:

For example, a statement of policy may set out that the licensing authority will carefully consider applications for premises licences and whether there is a need for condition(s) to mitigate risks, in respect of certain kinds of gambling located very close to a school or a centre for gambling addicts, in light of the third licensing objective. The statement of policy must be clear that each case will be decided on its merits and will depend to a large extent on the type of gambling that is proposed for the premises.¹³

In its July 2012 [report](#) on the 2005 Act, the Culture, Media and Sport Committee said that the removal of the demand test had had the “unintended consequence of encouraging the clustering of betting shops in some high streets.”¹⁴

Moral objections to gambling

The Gambling Commission’s guidance states that a licensing authority cannot make decisions based on moral objections to gambling:

Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid

⁹ *Gaming Act 1968* Schedule 2

¹⁰ DCMS, *Gambling Review Report*, July 2001, paras 20.15-20.31

¹¹ For further information on statements of licensing policy see part 6 of the Gambling Commission’s *Guidance to licensing authorities*

¹² *Ibid*, para 6.37

¹³ *Ibid*, para 6.38

¹⁴ Culture, Media and Sport Select Committee, *The Gambling Act: a bet worth taking?*, HC 421 2012/13, July 2012, para 66

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reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).¹⁵

Even if a licensing authority finds no reason to reject a licence application, others can object. The term used in the 2005 Act and associated guidance is not "objections" but "representations".

2.1 Objecting to a new licence application

In dealing with an application, licensing authorities are obliged to consider representations from "responsible authorities" and "interested parties".¹⁶

Responsible authorities

These are listed in section 157 of the 2005 Act and include:

- the licensing authority in England and Wales
- the Gambling Commission
- the chief officer of police or chief constable
- the fire and rescue authority
- the local planning authority
- an authority which has functions in relation to pollution to the environment or harm to human health
- HM Revenue & Customs

Interested parties

To accept a representation from an interested party, the licensing authority must take the view that the person:

- 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 in either of the above two groups¹⁷

The Gambling Commission's guidance states that interested parties can be people who are democratically elected, such as councillors and MPs, representing individuals in the other categories.

Other representatives might include trade associations, trade unions, and residents' associations. A school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to a proposed premises. Apart from democratically elected persons, licensing authorities should satisfy themselves on a case by case basis that a person *does* represent interested parties and can request written evidence where necessary.¹⁸

¹⁵ Gambling Commission, *Guidance to licensing authorities*, para 8.1

¹⁶ *Gambling Act 2005* s161

¹⁷ *Gambling Act 2005* s158

¹⁸ Gambling Commission, *Guidance to licensing authorities*, paras 8.16- 8.17

Representations

To be given consideration, representations must not be “vexatious” or “frivolous”.¹⁹ In deciding whether or not this is the case, licensing authorities should consider:

- who is making the representation, and whether there is a history of making representations that are not relevant
- whether it raises a ‘relevant’ issue
- whether it raises issues specifically to do with the premises that are the subject of the application²⁰

The only representations that are likely to be relevant are those that relate to the Gambling Act’s licensing objectives, or that raise issues under a licensing policy statement or the Gambling Commission’s guidance or codes of practice.²¹

If a relevant objection is received, the licensing authority must arrange a hearing to determine whether to:

- grant the licence
- grant the licence subject to additional conditions
- refuse the application

The licensing authority’s decision can be appealed at the magistrates’ court.

Once issued, a premises licence remains in place unless the annual fee is not paid or where the holder: is not occupying the premises; dies; becomes mentally or physically incapacitated; is declared bankrupt or goes into liquidation; surrenders the licence; or has it forfeited by a court.

2.2 Review of an existing licence

A premises licence can be reviewed by the licensing authority of its own accord. Responsible authorities and interested parties can also apply for a review.²²

Initiation of review by licensing authority

Under section 200 of the 2005 Act, licensing authorities may initiate a review in relation to a particular premises licence or a particular class of premises licence.

In relation to a class of premises, the licensing authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions. In relation to these general reviews, it is likely that the licensing authority will be acting as a result of concerns or complaints about particular types of premises. This may result in them looking at default conditions that apply to that category of licence.²³

¹⁹ *Gambling Act 2005* s162(3)

²⁰ Gambling Commission, *Guidance to licensing authorities*, para 7.54

²¹ *Ibid*, para 7.53

²² *Gambling Act 2005* s197

²³ Gambling Commission, *Guidance to licensing authorities*, para 10.6

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In relation to particular premises, the licensing authority may review any matter connected with the use made of the premises if:

- it has reason to suspect that premises licence conditions are not being observed
- the premises is operating outside of the principles set out in the licensing authority's statement of policy
- there is evidence to suggest that compliance with the licensing objectives is at risk
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party²⁴

The licensing authority must give written notice to the licence holder and responsible authorities that it intends to undertake a review and must also publish notice of its intention to carry out the review.²⁵

Application for a review

Applications must be submitted to the licensing authority in the prescribed form and state the reasons why a review is being requested, together with any supporting information. The applicant for a review must provide notice in writing of their application to the premises licence holder, and to all responsible authorities, within seven days of making the application. Representations about the application must be made within 28 days, commencing seven days after the date on which the application was received.²⁶

Deciding whether to grant a review

An application for a review may be rejected if the grounds on which it is sought:

- are not relevant to Gambling Commission guidance/codes of practice, the licensing authority statement of licensing policy, or the licensing objectives
- are frivolous or vexatious
- 'will certainly not' cause the licensing authority to revoke or suspend a licence or to remove, amend or attach conditions to the premises licence
- are substantially the same as previous representations or requests for a review²⁷

Carrying out a review

Having given notice of their intention to initiate a review or having decided to grant a review following an application, a licensing authority should carry out a review as soon as possible after the 28 day period for making representations has passed.²⁸ The purpose of the review will be

²⁴ Ibid, para 10.7

²⁵ Ibid, paras 10.9-10.10

²⁶ Ibid, paras 10.11-10.13

²⁷ Ibid, para 10.14

²⁸ Ibid, para 10.18

to determine whether the licensing authority should take any of the following steps in relation to the licence:

- add, remove or amend a licence condition imposed by the licensing authority
- exclude a default condition imposed by the Secretary of State or Scottish Ministers (for example, relating to opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months
- revoke the premises licence²⁹

The licensing authority must hold a hearing, unless the applicant and any person who has made representations consent to the review being conducted without one. The licensing authority must have regard to any relevant representations when reviewing the matter, and must have regard to the principles in section 153 of the 2005 Act.

The licence holder has the right to appeal a review decision.³⁰

²⁹ Ibid, para 10.19

³⁰ Ibid, part 12

3. Personal licences

The purpose of the personal licence is to ensure that individuals who control facilities for gambling or are able to influence the outcome of gambling, are directly accountable to the Gambling Commission. The Commission can impose licence conditions that are specific to personal licences. These conditions can include requirements that the licence holder takes reasonable steps to avoid causing a breach of an operating licence, keeps up to date with developments in gambling legislation or guidance, and informs the Commission of certain specified key events.³¹

Anyone who has responsibilities in the following areas will need to apply for a [personal management licence](#):

- overall strategy and delivery of gambling operations
- financial planning, control and budgeting
- marketing and commercial development
- regulatory compliance
- gambling related IT provision and security
- management of the licensed activity for a particular area in Great Britain where there are five or more sets of premises for which a premises licence is held³²

Applications are assessed against five basic areas: identity and ownership, finances, integrity, competence, and criminality.

The Gambling Commission may grant a licence; limit the scope of activities that can be carried out in accordance with the licence; or refuse a licence completely.

³¹ Ibid, para 2.12

³² Gambling Commission website: [Personal management licence](#) [accessed 19 January 2018]

4. Planning matters

In brief

Before April 2015, under permitted development rules, buildings with a range of high street uses could be converted into betting shops with no planning permission required. Amid concerns that local planning authorities did not have enough control over this change of use and the resulting proliferation of betting shops, the then coalition Government consulted on change.

The change from April 2015 now means that a planning application must be made for a change of use to a betting shop. Even so, there are calls for further change. Concerns about clusters of betting shops affecting high street vitality, particularly in deprived areas - most recently expressed during debates on the *Neighbourhood Planning Bill 2016-17* - have prompted calls for national guidance on clustering. The Local Government Association has also called for the Government to introduce a “cumulative impacts test” to enable councils to reject applications for new betting shops where there are already clusters of shops.

4.1 Planning control and permitted development change of use

The *Town and Country Planning (Use Classes) Order 1987* puts uses of land and buildings into various categories known as “Use Classes”. The categories give an indication of the types of use which may fall within each use class and are then further divided into a number of subclasses. There are four main categories, of which Class A covers shops and other retail premises such as restaurants and bank branches. Not all uses are put into a use class; these are called “sui generis”

A further regulation, the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) grants what are called “permitted development rights”, in broad terms a right to develop without the need to apply for planning permission.³³ Under the 2015 Order, planning permission is not needed for changes in use of buildings within each subclass and for certain changes of use between some of the classes.

Before 15 April 2015, betting shops were in the A2 use class, which also covered financial services such as banks and building societies and solicitors and estate agents. Permitted development rights also allowed the change of use from restaurants and cafés (A3), public houses (A4), and hot food takeaways (A5) into betting shops or payday loan shops. Planning permission was therefore not required to change from these uses to betting shop use and so local planning authorities did not have a role in approving (or not) change of use.

Since April 2015, betting shops have been in the “sui generis” category, so a planning application must be submitted to a local planning authority, to decide whether to permit the change of use.

The Commons Library briefing [Permitted development rights](#) provides further background (SN 00485, 14 June 2017).

³³ SI 2015/596

4.2 Calls for change

In a [debate on bookmakers and planning in Haringey](#) in November 2010, David Lammy observed that his constituency had 39 bookmakers but no book shop. He asked for betting shops to be reclassified as sui generis, so that, for any other establishment on the high street to change use to become a betting shop, a planning application would need to be made. The then Planning Minister, Robert Neill, rejected the suggestion and recommended the use of an Article 4 Direction, whereby a local council can suspend permitted development rights in certain circumstances.³⁴

Mary Portas's [High Street Review in](#) December 2011 also recommended putting betting shops into a separate use class:

Currently, betting shops are oddly and inappropriately in my opinion classed as financial and professional services. Having betting shops in their own class would mean that we can more easily keep check on the number of betting shops on our high streets.³⁵

2014 consultation on changes

The April 2015 changes followed a July 2014 [technical consultation](#).³⁶

The consultation originally proposed to create a larger, renamed A1 class to incorporate a lot of what are currently A2 uses, leaving betting shops in a more limited class A2. The then Government decided, though, to move betting and payday loan shops out of the A2 class and into the sui generis class. The Explanatory Memorandum to the 2015 Order introducing the change explained why:

8.5 There was overwhelming support for the proposal to always require a planning application for change of use to a betting office or pay day loan shop. There was also support for the proposal to combine the shops (A1) and most of the financial and professional services (A2) use classes, with the additional flexibility welcomed but concern over potential loss of diversity in the high street. The Government decided to retain the current shops (A1) and financial and professional (A2) use classes, and to introduce a permitted development right to allow change of use from A1 to A2.³⁷

Research for the Responsible Gambling Trust, July 2016

In July 2016, the Local Government Association quoted research conducted by [Geofutures for the Responsible Gambling Trust](#) which found that rates of “problem gambling” were higher in areas with clusters of betting shops. The LGA called for the Government to introduce a “cumulative impacts test” to enable councils to reject

³⁴ [HC Deb 24 November 2010 c406-9](#)

³⁵ The Portas Review: [An independent review into the future of our high streets](#), December 2011

³⁶ Department for Communities and Local Government, [Technical consultation on planning](#), July 2014

³⁷ SI 2015/597, *The Town and Country Planning (Use Classes) (Amendment) (England) Order 2015*, [Explanatory Memorandum](#)

applications for new betting shops where there are already existing clusters of shops.³⁸

Neighbourhood Planning Bill debates 2016-17

In December 2016, at Commons Report Stage, Labour member Graham Jones moved an amendment to the [Neighbourhood Planning Bill 2016-17](#) to deal with guidance on clustering of betting shops. He cited the Portas review's findings and highlighted the problems of clustering, particularly in poorer areas.³⁹ In response, the then Housing and Planning Minister, Gavin Barwell, said that he did not see a need for national guidance.⁴⁰

In February 2017 at the Bill's House of Lords Committee stage, Labour's Lord Beecham also moved an amendment to insert a new clause into the Bill designed to control the proliferation of betting shops.⁴¹ For the Government, Lord Bourne of Aberystwyth replied that the changes made in April 2015 gave local authorities better control of betting shops and, if they were concerned about clustering of betting shops, they should have an up-to-date local plan with "robust" policies in place.⁴² Lord Beecham withdrew the amendment.

APPG on Fixed Odds Betting Terminals, January 2017

The [Fixed Odds Betting Terminals All Party Parliamentary Group](#) held an inquiry into the impact of Fixed Odds Betting Terminals (FOBTs). In its [report](#) published in January 2017 it said that "powers should be given to local authorities to prevent the clustering of betting shops."⁴³

³⁸ Local Government Association, "[Extra powers and lower machine stakes are needed to tackle betting shop clustering](#)" 23 July 2016

³⁹ [HC Deb 13 December 2016 c667-8](#)

⁴⁰ [HC Deb 13 December 2016 c731](#)

⁴¹ [HL Deb 2 February 2017 c276](#)

⁴² [HL Deb 2 February 2017 c278](#)

⁴³ Fixed Odds Betting Terminals All Party Parliamentary Group, [Fixed Odds Betting Terminals Inquiry Report](#), January 2017

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