

PREMISES LICENCE APPEALS

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PREMISES LICENCE APPEALS **LICENSING ACT 2003 & GAMBLING ACT 2005**

- If a party to a licensing application made before a Council Licensing Sub-Committee wishes to challenge the Committee's decision, they may:
 - appeal to the Magistrates' Court
 - judicially review the decision, or
 - complain to the Local Government OmbudsmanThe first of these remedies is usually the most appropriate.
- An appeal to Magistrates must be commenced within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision. There is no power to extend the deadline for an appeal.
- An appeal before the Magistrates is a rehearing. It is open to any party to produce fresh evidence that has come to light since the initial application.
- We are often asked whether lodging an appeal delays the effect of the decision of the Sub-Committee. In general terms, where the decision fetters existing rights, the effect of the decision is suspended until the outcome of an appeal. For example, if a premises licence is suspended or revoked at first instance, such a decision will not take effect until the appeal has either been determined or withdrawn. In other circumstances, the decision of the Sub-Committee may be effective immediately.
- Unlike at hearings before a Council Licensing Sub-Committee, Magistrates may award costs as they think fit. Whilst in principle, costs should not be awarded against a local authority that has acted honestly, reasonably and properly, exceptions can and do occur. For example, we were successful in the first Gambling Act 2005 appeal against the refusal of a betting premises licence, with a cost award of £10,000 being made against the licensing authority in favour of our clients.
- Appealing is not always the correct course of action. On occasion it might be prudent to accept the decision and apply to vary the premises licence, or even apply for a new premises licence, at a later date. We can advise you as to the most appropriate course of action dependent on the particular circumstances in any given case.
- The decision of the Magistrates cannot be appealed to the Crown Court. Instead, any further challenges can only be to the Administrative Court on appeal by way of case stated or judicial review. Such proceedings do not represent a rehearing but instead turn on questions of law. We are very experienced in advising whether sufficient grounds exist to justify such a step being taken, having been involved on behalf of clients in several recent high-profile judicial review proceedings.
- With a team that, according to Chambers & Partners 2008, "*understands all the licensing processes to the core*", we have considerable experience in appeal courts across England and Wales.

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Need to know more?

Ask us. *“Truly proactive practitioners, well versed in licensing law, greatly knowledgeable and utterly dependable in fighting its clients’ battles ...”* – Chambers Guide to the UK Legal Profession 2008. For information/advice on alcohol or entertainment licensing matters, gaming, betting, lotteries or remote gambling, please contact:

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This document is not intended to be a comprehensive review of all developments in the law or practice, or to cover all aspects of those referred to. Readers should take legal advice before applying the information contained in this publication to specific issues or transactions.

Joelson Wilson LLP

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