

EU SERVICES DIRECTIVE TACIT AUTHORISATION POLICY

The Provision of Services Regulations 2009

Part 3 Duties of Competent Authorities in Relation to Provision of Services

Regulation 19; Authorisation Procedures: Time for Dealing with application

Licensing Applications where Tacit Consent will not apply because different arrangements are in place

Different arrangements are in place for the following categories of applications. These have been put in place having regard to overriding reasons relating to the public interest (ORRPI), including a legitimate interest of third parties.”

The directive defines ORRPI as “...reasons recognised such as in the case law of the court of justice, including the following grounds: public policy; public security; public safety; public Health; preserving the financial equilibrium of the social security system; the protection of consumers, recipients of services and workers; fairness of trade transactions; combating fraud; the protection of the environment and urban environment; the health of animals; intellectual property; the conservation of the national historic and artistic heritage; social policy objectives and cultural policy objectives”

The following list of applications are not exhaustive and the authority will review policies and procedures as appropriate to ensure compliance with the EU Regulations and having regard to the public interest.

Formality name/Legislation	Service name	OORPI and third party interest
Animal Boarding Establishment Licence Animal Boarding Establishments Act 1963	Application for a new licence	<i>The health of animals; The protection of consumers, recipients of services and workers.</i> Tacit authorisation will not apply. Different arrangements are in place in accordance with the requirements of the Animal Boarding Establishments Act 1963. The Council must carry out an inspection of the premises to ensure adequate management standards are in place to protect animal welfare and that precautions are in place to prevent the spread of disease. The Council Must check that the person proposing to run the establishment is suitable. There is a risk that an application could
	Application to change a licence	
	Application to renew a licence	

		<p>be granted to someone who has been disqualified to run an establishment under relevant legislation.</p> <p>There is a risk that an application could be granted in respect of unsuitable premises that could endanger animal welfare or allow the spread of disease.</p> <p>Where the authority proposes to refuse an application it must be determined by a licensing subcommittee. The subcommittee would need to hear all the relevant details in order to make a fully considered decision.</p>
<p>Pet Shop Licence</p> <p>Pet Animal Act 1951</p>	Application for a new licence	<p><i>The health of animals; The protection of consumers, recipients of services and workers</i></p> <p>Tacit authorisation will not apply. Different arrangements are in place in accordance with the requirements of the Pet Animal Act 1951.</p> <p>The Council must carry out an inspection of the premises to ensure adequate management standards are in place to protect animal welfare and that precautions are in place to prevent the spread of disease.</p> <p>The Council Must check that the person proposing to run the establishment is suitable.</p> <p>There is a risk that an application could be granted to someone who has been disqualified to run an establishment under relevant legislation.</p> <p>There is a risk that an application could be granted in respect of unsuitable premises that could endanger animal welfare or allow the spread of disease.</p> <p>Where the authority proposes to refuse an application it must be determined by a licensing subcommittee. The subcommittee would need to hear all</p>
	Application to change a licence	
	Application to renew a licence	

		the relevant details in order to make a fully considered decision.
Scrap Metal Dealer Licence Scrap Metal Dealer Act 2013	Application for a site licence	<p><i>public policy; public security: public safety; the protection of the environment and urban environment;</i></p> <p>Tacit authorisation will not apply. Different arrangements are in place in accordance with the requirements of the Scrap Metal Dealers Act 2013</p> <p>The Council will have to carry out checks and consult with other local authorities and agencies such as the Police and the Environment Agency to be satisfied that the applicant is a suitable person to carry on a business as a scrap metal dealer.</p> <p>There is a risk that an application could be granted to a person who is not suitable to carry on a business as a scrap metal dealer.</p> <p>Where the Council propose to refuse an application and the applicant informs the Council that they wish to make oral representations then they have a right to be heard by a person appointed by the Authority. The appointed person would need to hear representations from all parties in order to make a considered decision.</p> <p>Where representations are received from other authorities or agencies they have a legitimate third party interest.</p>
	Application for a collectors licence	
Sex Establishment Licence Local Government (Miscellaneous Provisions) Act 1982	Application for a new licence	<p><i>Public Policy; Public Security: Public Safety; Public Health;</i></p> <p>For applications where relevant representations are received tacit authorisation will not apply. Different arrangements are in place in accordance with the Local Government (Miscellaneous Provisions) Act 1982</p> <p>Where relevant representations are</p>
	Application to change a licence	
	Application to renew a licence	

		<p>received and not withdrawn the application must be determined by a licensing subcommittee. The subcommittee would need to hear all parties in order to make a fully considered decision.</p> <p>There is a risk that contentious applications which have not been made in line with the Council's Sex Establishment Policy could be granted without persons who have made representation being heard. This may lead to crime and disorder and public nuisance or could remove public safety or protection of children.</p> <p>Where relevant representations are received from the police or a member of the public they have a legitimate third party interest</p>
<p>Massage and Special Treatment Premises Licence</p> <p>Bye Law under Local Government (Miscellaneous Provisions) Act 1982</p>	<p>Application for a new licence</p> <p>Application to change a licence</p> <p>Application to renew a licence</p>	<p><i>Public Safety; Public Health; The protection of consumers, recipients of services and workers</i></p> <p>Tacit authorisation will not apply. Different arrangements are in place in accordance with the requirements of the Local Government (Miscellaneous Provisions) Act 1982</p> <p>The Council must carry out an inspection of the premises to ensure adequate health and safety standards are in place in respect of the premises and equipment used; Staff will need to be assessed and interviewed to ensure they are suitably qualified and competent to provide treatments and that management is fit and proper to hold a licence.</p> <p>The Council may have to carry out checks and consult with other local authorities and agencies such as the Police and the fire brigade to be satisfied that the applicant is a suitable person to carry on a business and that there are no fire risks at the premises</p>

		<p>There is a risk that an application could be granted to someone who is not suitable or where staff are not competent to carry out treatments</p> <p>There is a risk that an application could be granted in respect of unsuitable premises where there are risks to health and safety.</p> <p>Where the authority proposes to refuse an application it must be determined by a licensing subcommittee.</p> <p>The subcommittee would need to hear all parties in order to make a fully considered decision.</p>
<p>Club Premises Certificate (CPC)</p> <p>Licensing Act 2003</p>	Application for a new CPC	<p><i>Public Policy; Public Security; Public Safety; Public Health;</i></p> <p>For applications where relevant representations are received in respect of the licensing objectives tacit authorisation will not apply. Different arrangements are in place in accordance with the Licensing Act 2003 (Hearings Regulations) 2005.</p> <p>There is a risk that contentious applications which have not been made in line with the Council's licensing policy could be granted without persons who have made representations being heard. This may lead to crime and disorder and public nuisance, or could remove public safety or protection of children.</p> <p>Where relevant representations are received and not withdrawn the application must be determined by a licensing sub-committee. The sub-committee would need to hear all parties in order to make a fully considered decision.</p> <p>Where relevant representations are received from a responsible authority or an interested party they have a</p>
	Declaration for a CPC	
	Application to vary a CPC (full)	
	Application to vary a CPC (minor)	

		legitimate third party interest
Premises Licence Licensing Act 2003	Application for a new premises licence	<i>Public Policy; Public Security: Public Safety; Public Health;</i>
	Provisional Statement	For applications where relevant representations are received in respect of the licensing objectives tacit authorisation will not apply. Different arrangements are in place in accordance with the Licensing Act 2003 (Hearings Regulations) 2005.
	Application for need for a DPS to be disapplied	
	Application to vary a premises licence (full)	
	Application to vary a premises licence (minor)	There is a risk that contentious applications which have not been made in line with the Council's licensing policy could be granted without persons who have made representations being heard. This may lead to crime and disorder and public nuisance or could remove public safety or protection of children.
	Application to vary a licence to specify an individual as DPS	
	Application to transfer a premises licence	Where relevant representations are received and not withdrawn the application must be determined by a licensing sub-committee. The sub-committee would need to hear all parties in order to make a fully considered decision. Where relevant representations are received from a responsible authority or an interested party they have a legitimate third party interest.
	Interim authority notice	
Temporary Event Notice Licensing Act 2003	Application for a Temporary Event Notice	<i>Public Policy; Public Security: Public Safety; Public Health;</i> For applications where relevant representations are received in respect of crime and disorder or public nuisance. Different arrangements are in place in accordance with the Licensing Act 2003 (Hearings Regulations) 2005 There is a risk that events could take place that could lead to crime and disorder and public nuisance.

		<p>Where representations are received and not withdrawn the application must be determined by a licensing subcommittee.</p> <p>The sub-committee would need to hear all parties in order to make a fully-considered decision.</p> <p>Where relevant representations are received by the police or the Council's Environmental Health Officer they have a legitimate third party interest.</p>
<p>Riding Establishment Licence</p> <p>Riding Establishments Act 1964</p>	Application for a new licence	<p><i>"The health of animals" "the protection of consumers, recipients of services and workers"</i></p> <p>Tacit authorisation will not apply. Different arrangements are in place in accordance with the requirements of the Riding Establishment Act 1964.</p> <p>The Council must carry out an inspection of the premises to ensure adequate management standards are in place to protect animal welfare and that precautions are in place to prevent the spread of disease.</p> <p>The Council must consider a report from a veterinary surgeon or practitioner detailing whether the premises are suitable for a riding establishment and detailing the conditions of the premises and any horses.</p> <p>The Council Must check that the person proposing to run the establishment is suitable.</p> <p>There is a risk that an application could be granted to someone who has been disqualified to run an establishment under relevant legislation.</p> <p>There is a risk that an application could be granted in respect of unsuitable premises that could endanger animal</p>
	Application to change a licence	
	Application to renew a licence	

		<p>welfare or allow the spread of disease.</p> <p>Where the authority proposes to refuse an application it must be determined by a licensing subcommittee. The subcommittee would need to hear all the relevant details in order to make a fully considered decision.</p>
<p>Zoo Licence</p> <p>Zoo Licensing Act 1981</p>	Application for a new licence	<p><i>“The health of animals” public security; public safety; public Health;</i> <i>“the protection of consumers, recipients of services and workers”</i></p> <p>Tacit authorisation will not apply. Different arrangements are in place in accordance with the requirements of the Zoo Licensing Act 1981.</p> <p>The Council must carry out an inspection of the premises to ensure adequate management standards are in place to protect animal welfare and that precautions are in place to prevent the spread of disease.</p> <p>The Licensing Authority must consider a report from a veterinary surgeon detailing the conditions of the premises and the animals.</p> <p>There is a risk that an application could be granted to someone who has been disqualified to run an establishment under relevant legislation.</p> <p>There is a risk that an application could be granted in respect of unsuitable premises that could endanger animal welfare or allow the spread of disease.</p> <p>Where the authority proposes to refuse an application it must be determined by a licensing subcommittee. The subcommittee would need to hear all the relevant details in order to make a fully considered decision.</p>
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