

**Remote operating licence application
review**

Consultation document

September 2013

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1. Introduction

- 1.1 This informal consultation document sets out the Gambling Commission's (the Commission) proposals to improve the application process and information requirements for remote operating licence applications. It seeks views on those changes, in particular the proposal to adopt the Multi Jurisdictional Business Form (MJBFB), as part of the application process.
- 1.2 The consultation document also sets out the way in which we propose to exchange information with other gambling regulators to avoid unnecessary duplication and reduce the burden on applicants.
- 1.3 The Commission has been accepting applications from those seeking an operating or personal licence since January 2007. The Commission last consulted on the information requirements needed in order to reach licensing decisions in May 2006. Other than minor amendments to clarify questions and update the guidance material, there has been little change in either the operating or personal licence application forms since they were introduced in December 2006.
- 1.4 The implementation of the Gambling (Licensing and Advertising) Bill will mean a large number of overseas based operators will be required to make application for a Commission remote operating licence.
- 1.5 A remote operating licence is required for the provision of facilities for gambling in which persons participate by the use of remote communication (internet, telephone including mobile phones, television and radio and any other electronic or other technology for facilitating communication). Further details of the types of licence activities requiring a remote operating licence can be found on our website at www.gamblingcommission.gov.uk
- 1.6 Many of those applying will already hold a remote operating licence in one or more gambling jurisdictions across the world. In reviewing the application process the Commission is taking the opportunity to review the information and evidence it requires of remote operating licence applicants at the application stage and, where applicable, to bring those requirements in line with those sought by other regulators.
- 1.7 The Commission recognises the need to exchange information with other gambling regulators and foster greater administrative co-operation. The standardisation of the types of information required by gambling regulators would go a long way to reducing the burden on operators applying to multiple jurisdictions of having to revisit or re-present information already provided.
- 1.8 The Commission, subject to this consultation, intends to adopt the Multi Jurisdictional Business Form (MJBFB) being developed under the auspices of the International Association of Gaming Regulators (IAGR). The MJBFB will become an integral part of the application process and, together with our Jurisdictional Rider that contains information requirements specific to the UK licensing regime, will be the basis for remote operating licence applications.
- 1.9 The Commission is developing its eServices. This is a range of efficient online services to reduce the regulatory burden on licensed operators. The Commission will require applicants for remote operating licences to complete and submit applications online, uploading supporting documents where applicable through the secure eServices portal on our website.

- 1.10** The documents attached to this consultation are therefore **for illustrative purposes only**. They show the questions that applicants will be asked to complete and the supporting documentation that will be required as part of the application process.
- 1.11** The Commission remains committed to ensuring the licensing process is rigorous and proportionate. Where the Commission already holds information, it will not ask an applicant for this information again. If the Commission can efficiently and expediently obtain information from another gambling regulator it will do so.
- 1.12** The timetable for the introduction of the new application process and information requirements is intended to facilitate the acceptance of remote operating licence applications following the introduction of the Gambling (Licensing and Advertising) Bill, currently expected in early 2014. However, the new application process and information requirements will be introduced in the spring whether or not the Bill obtains parliamentary approval by that time. Once the new application process is introduced it will be available to all those requiring a Gambling Commission remote operating licence.
- 1.13** As some of those applicants may be new to the gambling industry and may wish to apply for both remote and non-remote operating licences, the application allows for both licences to be applied for at the same time rather than the applicant having to submit separate applications.
- 1.14** The consultation opens on 26 September 2013 and closes on 28 October 2013. The response document will be published in November 2013. Further information on how to respond is contained in Section 9.

2 Background

- 2.1** Those seeking an operating licence are required to submit an application to the Commission. Section 69 (2) of the Gambling Act 2005 (the Act) specifies the contents required in an application for an operating licence and provides for the Commission to direct the form and manner by which an application must be made and to be able to stipulate any further information or supporting documentation that it requires to enable it to consider the application.
- 2.2** In considering an application the Commission will form and have regard to an opinion of the applicant's suitability to carry out the licensed activities. The Commission expects applicants to be able to demonstrate that they can meet the Commission's suitability assessment and ensure that the activities they plan to carry out will be conducted in a manner which minimises risks to the licensing objectives. The Commission's *Statement of Principles* and the *Licensing, compliance and enforcement policy statement* detail the approach to considering the suitability of applicants. These documents are available on our website at www.gamblingcommission.gov.uk
- 2.3** All applicants are required to supply the Commission with sufficient and complete information to support their application and in particular information that will enable the Commission to assess them against the tests set out in the Act. Specifically, information is required that enables the Commission to:
- establish their identity, including for operating licences the identity of the key individuals
 - evaluate their integrity and competence, again including that of the key individuals
 - take into account any criminal record they may have and in some cases check whether the local police have any intelligence on them

- consider the financing and detailed planning of their business or their financial circumstances as an individual
- understand the business operating model
- evaluate their ability to abide by the licensing objectives and manage any risks their business may present to the licensing objectives.

2.4 The Commission must be satisfied that the applicant is suitable to hold a licence. Whilst the Commission may conduct further enquiries and seek information from other available sources, including other gambling regulators, it is ultimately the responsibility of the applicant to meet and comply with any information requirements and provide supporting evidence in a timely, open and transparent manner.

3 Multi Jurisdictional Business Form

3.1 The Multi Jurisdictional Business Form (MJBF) has been developed by the International Association of Gaming Regulators (IAGR) and seeks to standardise the general information, track record and compliance records businesses are required to provide to regulators as part of their application for an operating licence. The aim is to reduce the burden on those that may apply to multiple jurisdictions as the form will be portable.

3.2 The intention is that the form will be available on the IAGR website for download and completion. The form is currently in the pilot stage of development and the example at Annex A shows the information requirements currently agreed by those IAGR members who have committed to adopt the form as part of their 'home' application process and may be subject to change. The Commission intends to adopt the form.

3.3 There will be some information that will be unique to each regulator and in addition to the MJBF the applicant will need complete a Jurisdictional Rider (see Section 4 below).

3.4 As part of its eServices facility the Commission will allow those that may have already completed the MJBF for another jurisdiction to upload a copy of the form and supporting documents as part of the application process. They will then be directed to completion of the Commission's Jurisdictional Rider.

3.5 For those who have not completed the MJBF the Gambling Commission's online application will include all questions in the MJBF together with those in the Rider. Applicants will have the facility at the end of the process to produce a PDF of both documents. This will allow them to easily use the MJBF as part of an application to another jurisdiction where that jurisdiction has adopted the MJBF as part of their application process.

3.6 Draft examples of the MJBF and guidance notes are available at Annex A.

Consultation questions

- Q1. Do you have any comments on the MJBF form, in particular, the information being requested on the MJBF form?
- Q2. Are the time periods over which details and or supporting documentation is required reasonable? If not what would be a reasonable time period? If you feel there should be different time periods dependent on the question please specify what they should be against each question.

4. Gambling Commission Jurisdictional Rider

- 4.1 Other than to incorporate amendments following fees reviews the Commission has not reviewed the application process for remote operating licence since the introduction of the application form in 2006.
- 4.2 The result has been that the Commission has often had to seek additional information from applicants for a remote operating licence following submission of their application, sometimes leading to some delays in processing. The Commission is therefore proposing to include the most common of these information requirements as part of the initial application process by incorporating them within its Jurisdictional Rider.
- 4.3 As part of its review the Commission has also identified areas where it requires additional information not previously sought or not sought at the level of detail now proposed. The following paragraphs draw attention to these particular sections and questions on the Rider. Some of the changes reflect the ongoing information requirements in the [proposed amendments to licence conditions and codes of practice for all operators \(LCCP\), consultation, September 2013](#).

Poker

- 4.4 Question 7c in Section 4 now asks for information on the provision of poker. The Commission is aware that a significant number of operators who will be required to hold a Commission licence under the Bill offer poker. There is currently no separate licence for those that only offer poker and the activity is authorised under a casino licence. The Commission at this stage does not intend to introduce a 'poker' licence. However, to inform future thinking and better understand the effort involved in regulating operators offering poker, the Commission would like to understand which of its operators solely offer poker or offer elements of poker.

Nominated officer for anti-money laundering reporting

- 4.5 Question 10 in Section 6 asks for the full name of an applicant's nominated officer for anti-money laundering, countering terrorist financing and Proceeds of Crime Act (PoCA) activities. It has always been and remains a requirement under the Money Laundering Regulations 2007 for casino operators to appoint a nominated officer. It has also been a Commission requirement that the nominated officer holds a personal management licence (PML). In addition the Commission has always recommended that all operators should consider appointing a nominated officer. It has not always been immediately clear from the organisational charts provided to the Commission by previous applicants who the nominated officer is and whether they hold or need to apply for a PML.

Relevant persons

- 4.6 Question 14 in Section 6 asks for details of any individual who has made some form of investment (for example loan, gift, services) and/or has some form of interest in the applicant (excluding equity). The inclusion of this new question will ensure that in considering the suitability of an applicant the Commission can be satisfied that all persons relevant to the application have been identified. The Commission will, where necessary, request further information about any individual identified. This may require them to complete a personal licence application or Annex A personal declaration form.

Alternative dispute resolution

- 4.7** Question 16 in Section 7 asks for the name of the applicant's alternative dispute resolution entity (ADR¹ formerly referred to as the independent third party). It has always been a condition of all operating licences that an operator has such a body in place to which they can refer customer disputes.

Payment service providers

- 4.8** Questions 23 to 25 in Section 11 ask for information about the payment methods accepted by an applicant for gambling facilities and the organisations used by an applicant to process payments on its behalf. The inclusion of these questions is intended to ensure that applicants use payment service providers that provide appropriate standards of customer protection and controls against money laundering.

Information security

- 4.9** Question 27 in Section 13 asks applicants to provide their most recent information security report if they are an existing business or, if they are a start-up, to have an information security audit conducted and provide the Commission with the report within six months of the licence being granted. The inclusion of this question will enable the applicant to satisfy the Commission either at application or as soon as practicable after granting a licence that the applicant has in place adequate information security controls.

Third party release

- 4.10** The Rider also includes an 'Authorisation for release of information' form which all applicants are required to sign to enable the Commission to obtain such information as it requires from relevant third parties about an operator both at application stage and, if a licence is granted throughout the life of the licence. This will allow the Commission to make all relevant checks as appropriate with relevant third parties without having to seek authority during the application process which can at times lead to unnecessary delays where a third party will not release information without signed authorisation.
- 4.11** Draft examples of the Rider and guidance notes are available at Annex B.

Consultation questions

- Q3.** Do you have any comment as to the information being requested on the Jurisdictional Rider in particular the additional questions identified above?

¹ The Commission is currently consulting on other changes relating to ADR entities in a consultation on proposed amendments to licence conditions and codes of practice for all operators

5. Supporting documentation

- 5.1** In addition to completing the online application questions (illustrated by the MJBF and Rider), an applicant is required to supply supporting documentation. The level of detail and evidence required varies depending on the type of licence sought or on the individual circumstances of the applicant, although all applicants are required to submit a minimum level of supporting documentation to satisfy our suitability criteria.
- 5.2** The table at Annex C sets out the Commission's supporting documentation requirements in each of the five elements of suitability that we assess an application against and identifies the types of supporting documentation we would normally expect a **new** applicant (those not previously licensed) to provide. Those requirements that are mandatory for all applicants are in orange text.
- 5.3** The following paragraphs detail those documentation requirements which are new or which have changed as a result of the Commission reviewing its application process and adopting the MJBF as part of that process.

Financial information

- 5.4** It is proposed that where applicable, the applicant provides evidence of its listing on any securities exchanges and its releases and announcements over the past five years to any stock exchange, including such releases and announcements in relation to a group company (any subsidiary or holding company of the licensee and any subsidiary of such holding company). This is a new requirement prompted by the intended adoption of the MJBF as part of the Commission's application process.

Copies of licences held in other jurisdictions

- 5.5** The MJBF requires copies of licences issued by other regulators to be submitted with the form. The Commission proposes that the applicant provides copies of existing gambling licences or permissions unless issued by EEA or jurisdictions previously included on the UK government's white list. The Commission currently asks for information about existing gambling licences held but does not always require copies. Requiring copies of licences at the application stage will better enable the applicant to satisfy the Commission that it is suitable and competent. It will also provide the Commission with an improved overall understanding of the nature of the applicant's businesses across all jurisdictions in which it provides gambling facilities.

Customer management, decisions making and escalation

- 5.6** The Commission proposes that the applicant provides more information about the applicants' end to end customer process. This means the process from when a customer registers with the applicant, gambles, through to payout of winnings. The Commission is proposing to require a detailed commentary of the activities at each stage, including details of where the process takes place (jurisdiction) and any outsourced activities. This will enable the applicant to better explain how it operates, controls and manages the customer journey and any risks to the licensing objectives.
- 5.7** The Commission proposes that the applicant, when supplying copies of their policies and procedures to demonstrate their ability to uphold the licensing objectives, also provides, where possible, process maps or flow diagrams which show how these work in practice. These documents need to include details of escalation and decision points for key decisions and who is responsible for making those decisions and their role in the business. The inclusion of this information coupled with that described in 5.8 below will provide the Commission with more detailed information about how the applicant will apply policies and procedures to the day to day operation of the business

5.8 The Commission proposes that the applicant includes a description of the decision making and escalation procedures when providing their management structure. Where the applicant is part of a group, the Commission proposes that the applicant also provides details of reporting, decision making and escalation procedures between the applicant and group companies. The inclusion of this information will provide the Commission with a clearer picture of the management, organisational and governance arrangements of the applicant and therefore which individuals should hold a PML.

Investigation

5.9 It is proposed that the applicant provides copies of any convictions and any previous or ongoing liquidator, insolvency, receivership or external administration reports in relation to the applicant or its related companies. The Commission currently asks for this information but does not require copies. Provision of copies with the application will enable the Commission to better understand at any early stage of the application process the details of these matters and should help towards reducing processing times.

5.10 The Commission proposes that those individuals in key management positions submit job descriptions and copies of CVs. The Commission currently asks for employment history over the previous ten years and details of professional qualifications or training. The Commission considers that the inclusion of job descriptions and CVs will enable the applicant to better evidence the competence of key individuals and provide the Commission with a more detailed understanding of the roles and responsibilities of those individuals within the business. Again having that information at an early stage in the application process should help to reduce processing times.

5.11 The Commission already asks for financial evidence which demonstrates the overall viability of the business, the source of funds and the resources available to enable the applicant to carry out the licensed activities. The MJBF proposes additional information is provided. Inclusion of this additional information will allow the applicant to further evidence its financial circumstances:

- where applicable and for the past five years, the applicant's audited accounts and financial statements along with those of any parent company
- annual return or equivalent annual filing for all jurisdictions in which the applicant is registered for the past five years
- bank statements for all accounts operated by the applicant along with a recent monthly bank statement for all individuals in key management positions and/or providing funding for the applicant
- applicant's credit or analyst's report along with (for the same individuals mentioned above if they are based overseas) credit reports for relevant individuals
- details of any bonus, profit sharing, superannuation schemes or similar plans
- list of all individuals who are being compensated more than \$250,000.

Consultation questions

Q4. Do you have any comments on the supporting documentation requirements?

Q5. Do you have any comments on the mandatory documentation requirements, in particular should we require other mandatory documentation and, if so, what and why?

6. eServices – online application process

- 6.1 Both the MJBFB and Jurisdictional Rider will be available for completion and submission online with the facility to upload supporting documentation and pay the application fee.
- 6.2 As it is considered that those applying for remote operating licences will be comfortable with conducting business online and to reduce our own administrative costs and those of applicants, applicants for remote operating licences will be required to submit their applications online via the eServices portal which will be accessible via the Commission's website. A paper form will not be made readily available and only in exceptional circumstances will the Commission provide and accept a handwritten completed form.
- 6.3 The online application service will be dynamic. Applicants will be able to navigate through the application process in a way that reflects their business model and individual circumstances allowing the applicant to skip questions that are not applicable.
- 6.4 By using eServices, applicants will be able to upload information and supporting documentation including certified copies of identity documents and bank statements. This reduces the risk of original documents being lost in the post and unnecessary delays in delivery. Provided the images are clear and readable this will allow the Commission to immediately begin considering the application upon submission via eServices. Where images are unclear or the Commission, through its enquiries determines it necessary to see the original documents, the Commission will advise the applicant.
- 6.5 The Commission, except in exceptional circumstances, will correspond with applicants by email. This will reduce costs and time delays for applicants and the Commission.
- 6.6 Operators already holding a Commission operating licence were invited in (September) 2013 to register for eServices. eServices initially will enable operators to do the following activities online with the ability to submit remote operating licence applications becoming available in early 2014:
- generate a copy of their current licence(s)
 - continue to report key events; submit regulatory returns; provide lottery submissions
 - pay fees.
- 6.7 The Commission encourages all existing operators to register for eServices even if initially they may not intend to make use of the facilities.
- 6.8 New applicants for remote operating licences, including those applying subject to the introduction of the Gambling (Licensing and Advertising) Bill will be able to register for eServices and submit applications online from January 2014.

Please note: Applicants for non-remote operating licences (unless applying for a remote operating licence at the same time), personal licences and those required to complete an Annex A personal declaration form will not be able to submit these applications online during this first phase of eServices. We do however aim to introduce the facility for all applications to be submitted online in the latter part of 2014.

Consultation questions

- Q6. Do you have any comments on the requirement to submit remote operating licence applications online and the removal, except in exceptional circumstances, of the facility to submit such applications through non-electronic means?
- Q7. Do you foresee any specific difficulties with online submissions?

7. Transitional arrangements

- 7.1** With the introduction of the Gambling (Licensing and Advertising) Bill, it is expected that transitional arrangements will apply, allowing those operators who already lawfully advertise to, and are active in the British market by virtue of holding a licence in an EEA state or white list jurisdiction to continue to do so provided they make an application within the required time frame and pay the relevant application fee. This means that should the Commission not be in a position to determine the application in full before the commencement date of the new law they will be permitted to continue to provide remote gambling to British customers until such time as their application is determined.

Non-Commission licence holders

- 7.2** To make an application under transitional arrangements, operators who do not already hold a Commission remote operating licence will either complete the MJBF and the Commission's Jurisdictional Rider online or, where they have already completed the MJBF as part of an earlier application to another jurisdiction, upload the MJBF as part of their application and complete the Jurisdictional Rider.
- 7.3** The time period within which applications may be made under the transitional arrangements and the coming into force of the Bill may be relatively short. Therefore to minimise burdens on operators who qualify for transitional arrangements we intend to reduce the number of questions that need to be completed by those applicants to enable them to submit an application by the required deadline. The draft example of the MJBF (Annex A) and the Rider (Annex B) have been highlighted (in yellow) to show which minimum questions the Commission requires completed by those applying under the transitional provisions. Provided those minimum questions are answered in full and the relevant fee paid the Commission will accept the application with completion of further applicable questions and supporting documentation to follow. The more information an applicant can provide at the time of application or immediately following, the quicker the Commission will be able to move to fully determine an application.
- 7.4** The proposed acceptance of a reduced application during the transitional window is a concession intended to allay any concerns applicants may have about not being able to submit a full and complete application within such timeframes as may be specified in the transitional provisions. However the Commission will expect those who take advantage of this concession to answer the remaining applicable questions and submit the supporting information/documents in a timely fashion following their application. Those applicants who fail to do so will risk their application being refused and in such cases any continuation rights will cease to have effect.

Existing Commission remote operating licence holders

- 7.5** For those who already hold a Commission remote operating licence and will be seeking to vary that licence by adding activities or increasing their fee category ahead of the change in the law, the Commission will require completion of a transitional variation form. A draft example is attached at Annex D. Provided the variation is completed in full and the applicable fee paid, the Commission will accept the application with supporting documentation to follow.
- 7.6** Where any information is not submitted with the variation, operators will be required to provide it separately by email or post as soon as possible after submission of the variation. There will be no online submission facility for information not submitted with the variation.

7.7 In addition to the above and to minimise the burden on applicants the Commission will also seek some of the required information where it is able to do so via other gambling regulators. Please see Section 8 below.

7.8 Applicants not qualifying for transitional arrangements will not be able to operate in the British market until their licence has been granted the Commission.

Consultation questions

Q8. Do you have any comment on the transitional proposals or suggestions of ways to further improve?

8. Information sharing arrangements: other gambling regulators

8.1 Where practicable the Commission already exchanges information with other gambling regulators around the world about mutual licence holders or applicants. As the implementation of the Bill will see an influx of overseas based operators making applications for a remote operating licence with the Commission, the Commission has been working with other regulators to look at where information can be shared to avoid duplication and unnecessary burden on applicants already licensed overseas.

8.2 Where it can and particularly during the transitional period (outlined in Section 7), the Commission will accept any relevant information and supporting evidence already provided to or available from other gambling regulators as part of its consideration of an application. This will be used alongside the information gathered during the application process to form an opinion of the applicant's suitability to hold a remote operating licence with the Commission. It is however at the discretion of any other gambling regulator (the 'home' regulator) as to whether it provides the information and the level of detail of such information.

8.3 The supporting information requirements marked with an asterisk* on the table at Annex C are those we believe could be satisfied by assurances received from the 'home' regulator where the 'home' regulator is agreeable to providing such assurances. Where that is the case the applicant will not be required to provide those documents with the application (although there may be occasions where the Commission may also need to seek supplementary evidence direct from the applicant).

8.4 Where the assurance is not available from the 'home' regulator then the Commission will seek the supporting evidence directly from the applicant.

Consultation questions

Q9. Do you consider the Commission's approach to obtaining information where it can from other regulators is the right one?

Q10. Do you foresee any issues with the proposed approach? If so are there any alternatives the Commission should consider?

9 Responding to this consultation

- 9.1** The Commission is committed to full and open consultation and would welcome comments on any aspect of this document. The Commission would prefer respondents to complete the response template provided and send it by email to:
consultation@gamblingcommission.gov.uk
- 9.2** Alternatively, responses can be sent by post to:
Consultation
Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
- 9.3** The deadline for responses to this paper is **28 October 2013**. Please use the response template provided on our website if possible. Respondents are of course welcome to comment on only one or some of the topics addressed by this consultation.
- 9.4** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who that organisation represents. If responding as an individual, please mention your own interest.
- 9.5** Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 9.6** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or on our website at www.gamblingcommission.gov.uk. The Commission will treat information marked confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority the Commission must comply with the requirements of FOIA and must consider requests for information made under the Act on a case-by-case basis. Therefore when providing information, if you think that certain information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.
- 9.7** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments or agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.

Gambling Commission September 2013

Keeping gambling fair and safe for all

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