

# **Changes to society lottery and external lottery manager operating licence requirements**

**Consultation**

**July 2017**

# Contents

<b>1 Introduction</b>	<b>3</b>
<b>2 Background</b>	<b>4</b>
<b>3 Proposals</b>	<b>6</b>
<b>4 How to respond</b>	<b>10</b>
<b>5 Summary of consultation questions</b>	<b>11</b>

# 1 Introduction

- 1.1** This consultation sets out proposed amendments to the *Licence Conditions and Codes of Practice* (LCCP) that apply to gambling operators licensed by the Gambling Commission.
- 1.2** The proposed amendments detailed in this consultation would affect operators holding:
- a society lottery or local authority licence
  - an external lottery manager (ELM) licence.
- 1.3** Following this consultation, and taking into account the responses received, we expect to amend the relevant LCCP provisions. The amended provisions are expected to come into effect before April 2018.
- 1.4** In exercising our functions under the Gambling Act 2005 (the Act) the Commission must aim to pursue the 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
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.5** We have a duty to aim to permit gambling in so far as we think it is reasonably consistent with the licensing objectives. We also have a duty to provide advice to the Secretary of State about the incidence of gambling, the manner in which gambling is carried on, the effects of gambling and the regulation of gambling. We have licensing, compliance and enforcement powers to ensure the provision of commercial gambling and lotteries is in keeping with the regulatory framework and is consistent with the licensing objectives.
- 1.6** Since the Gambling Act came into effect in 2007, the lottery sector and the environment in which lotteries operate have altered significantly. Society lotteries are now a fundamental part of the giving landscape and, alongside the National Lottery, play a critical role in supporting good causes across Great Britain.
- 1.7** This consultation follows proposals from the Culture, Media and Sport (CMS) Select Committee's Inquiry into Society Lotteries in 2015 which examined the role of society lotteries in the lottery market.
- 1.8** The Select Committee's recommendations included a number of proposals for us to consider introducing to our LCCP. We have reviewed these recommendations against the risks to the licensing objectives and considered how these risks can be minimised. We have considered the powers available to the Commission and Secretary of State and – where there are clear risks to the fair and open licensing objective – consider it is appropriate to propose new social responsibility codes. We consider that the measures we propose in this consultation are proportionate to the possible risks to the licensing objectives. The new codes aim to ensure greater transparency to consumers on the nature of the gambling activity in which they are participating.
- 1.9** Responses are sought to this consultation by **30 September 2017**. Further details on how to respond and where to find the response template are included at the end of this document.

## 2 Background

### The Gambling Commission

- 2.1** We license and regulate all commercial gambling and large non-commercial lotteries within Great Britain, including the National Lottery, with the exception of spread betting which is regulated by the Financial Conduct Authority (FCA). Section 20 of the Act established the Commission as the national regulatory body for gambling.
- 2.2** Our functions under the Act include:
- licensing operators and individuals
  - monitoring compliance with licence conditions and the law
  - investigation and enforcement, both in relation to licensed operators and illegal (unlicensed) gambling
  - providing advice to central and local government on the incidence, manner, effects and regulation of gambling.
- 2.3** We have a statutory duty to aim to permit gambling provided that it is reasonably consistent with the licensing objectives. Our approach to the regulation of lotteries has been developed with that duty in mind.

### Policy objectives

- 2.4** Section 24 of the Gambling Act requires us to issue codes of practice about the manner in which facilities for gambling are provided. Section 82 of the Act makes it a condition of an operating licence that the licensee ensures compliance with any relevant social responsibility provision of a code of practice issued under section 24, whilst section 75 of the Act also enables us to specify general conditions to be attached to an operating licence or certain classes of operating licence.
- 2.5** The requirement for gambling activities to be conducted in an open manner, with terms and conditions made transparent to participants, applies to all operating licensees. This includes operators who promote society and local authority lotteries, and those who act as ELMs. Our position is that societies and ELMs could and should do more to provide consumers with more information on the lottery they are participating in, and how much of their stake is returned to the society to use for its good cause. As such, this consultation document sets out proposed new social responsibility (SR) Codes 4.3.1 and 4.3.2 to clarify this position.
- 2.6** In 2012, we published advice to the lottery sector on promoting multiple society lotteries through so-called branded or umbrella schemes ('umbrella lotteries'). This advice contained a number of key principles that societies and ELMs were expected to follow when promoting lotteries as part of umbrella schemes.
- 2.7** Since 2012, we have engaged with promoters of such schemes to ensure they are providing consumers with information that allows them to determine which society lottery they are participating in; and makes it clear that they are participating in a single society lottery promoted under a brand, rather than a large national lottery. The number and scale of such schemes has grown to the extent that we now consider it appropriate to attach specific SR codes to all lottery operating licence holders, in order to require them to follow these key principles and ensure consumers are provided with sufficient information for them to make an informed choice as to whether they wish to support that particular good cause or not.

- 2.8** Licence condition 11.1.1 (paragraph 15) requires societies to send a lottery submission to the Commission within three months of the date of determination of each lottery or, in the case of an ‘instant lottery’, within three months of the last date on which tickets in the lottery were on sale. Societies are required to provide certain information in this submission about the lottery and the breakdown of lottery proceeds. We have already consulted as part of a general review of regulatory data collection<sup>1</sup> on proposals to add the value of the top prize and type of lottery product to this information. The prevalence of ‘umbrella lotteries’ over recent years means more societies are participating in lottery schemes, so the information and manner in which we currently collect information on lotteries means it is difficult for us to monitor the impact of branded lottery schemes on the wider lottery market. As such, we have published our intent to extend the information required for each lottery submission to include a confirmation of whether each lottery was conducted as part of a ‘branded scheme’ (by which we mean a scheme whereby multiple societies promote lotteries under a common brand name or image, either on rotation with other societies or as a regular occurrence for that single society), and if so, the name of this scheme. We feel this requirement is appropriate for the future monitoring of such schemes<sup>2</sup>.
- 2.9** Section 99 of the Act requires societies to return a minimum of 20% of the proceeds of each lottery to the purposes of the society (the good cause). Whilst many societies return considerably more than this there are a number of lotteries which – for a number of reasons – only return the minimum. We consider it reasonable that consumers should be provided with information on the return to good causes made by each society in order to make an informed choice when deciding which societies to support.
- 2.10** We recognise that for many society lottery operators – excluding those offering online instant wins or high frequency lotteries - the requirements of certain code provisions are not proportionate to the risk to the licensing objectives. The recent consultation on the Remote Technical Standards (RTS) excludes certain types of lotteries from some of the requirements, and so we intend to add more explanation on what we consider to be ‘low’ and ‘high’ frequency lotteries by way of footnotes to SR code provision 3.2.13, to emphasise where we consider the greater risks to the licensing objectives are.

---

<sup>1</sup> [Regulatory data collection consultation](#) – the response was published on 18 May 2017 and outlined the Commission’s intent to introduce three new data points for lottery reporting:

1. Value of single top prize
2. Type of lottery product promoted
3. Whether the lottery formed part of a branded lottery scheme

<sup>2</sup> See paragraphs 4.13-4.18 of [Regulatory data consultation Responses \(part 2\) 18 May 2017](#)

## 3 Proposals

- 3.1** The underlying policy objectives we are seeking to achieve to ensure all lotteries are promoted in a fair and open manner are set out below, and these form the rationale behind the proposals which we are now inviting views on. If accepted, any new requirements are intended to come into force before April 2018.
- 3.2** To encourage greater accountability to consumers, we propose that a new SR code should be introduced at 4.3 – ‘Transparency of lottery activities’, to include the following:
- Operators should, through their annual report, society website or any other appropriate medium, provide the percentage of the total proceeds (ticket sales) returned to good causes from all the lotteries conducted in reliance on a society or local authority lottery operating licence in each calendar year.
  - A requirement for all lotteries conducted under a single brand (‘umbrella lotteries’) to comply with specific marketing requirements, as already outlined in our advice [Promoting multiple society lotteries](#).
- 3.3** We welcome comments on the proposed new SR code 4.3.1, which would apply to all society lottery operating licence holders (including local authority lotteries) and 4.3.2, which would apply to all lottery operating licence holders (including society and local authority lottery licence holders and ELMs).

### Proposed new social responsibility code provision 4.3

#### 4.3 Transparency of lottery activities

##### **Social responsibility code provision 4.3.1**

###### **Publication of percentage of lottery proceeds returned to the purposes of the society**

###### **All lottery operating licences issued to non-commercial societies or local authorities**

Licensees must ensure that details on the percentage of the total proceeds of lotteries promoted in a calendar year in reliance on this licence, that are returned directly to the purposes of the society or purposes for which the local authority has power to incur expenditure, are made available to consumers. This should be through either their annual report, lottery page of their society website or any other means appropriate to the size and scale of the organisation.

##### **Social responsibility code provision 4.3.2**

###### **Marketing of all lotteries conducted under a single brand (‘umbrella lotteries’)**

###### **All lottery operating licences issued to non-commercial societies, local authorities and external lottery managers**

Licensees must ensure each individual society lottery that forms part of a single-branded scheme (a scheme whereby multiple societies promote lotteries under a common brand name or image, either on rotation with other societies or as a regular occurrence for that single society) is promoted separately, and it must be clear to a participant in the lottery which society lottery they are being asked to participate in. Where a number of society lotteries are promoted under one brand, whether with an ELM or not, licensees must ensure that:

- a. the general advertising and marketing material relating to the promotion of the umbrella lottery brand makes it clear each draw will be on behalf of separate identified societies. This includes information on prize winners and good causes where this is clearly used to promote participation in the branded scheme
- b. prior to each lottery draw the relative prominence of the name of the umbrella lottery brand in the advertising and marketing material is secondary compared to that of the name of the society or societies involved in the promotion of that particular draw
- c. the document (ticket) given to participants at the time they pay to enter the lottery clearly and prominently specifies and displays the name of the individual society or societies involved in promoting each lottery draw.

## Consultation questions

- Q1. Do you agree that SR Code 4.3.1 should be added to provide greater transparency on the use of lottery proceeds by societies and local authorities?
- Q2. Do you agree that SR Code 4.3.2 should be added to provide greater transparency to consumers on which societies are promoting their lotteries through a single brand?
- Q3. Do you have any other comments on the proposed new SR Codes as drafted?

**3.4** We recognise that not all types of lotteries attract the same elements of risk, and to ensure proportionate regulation we have made a number of changes both to LCCP and RTS in the past. In recognising the changing nature and risk within the lottery sector, we also propose to further clarify what we regard as ‘low frequency’ and ‘high frequency’ lotteries, as well as ‘instant win’ lotteries, to assist licensees in identifying where a requirement is applicable to their operations. The ‘low frequency lottery’ definition is included as a footnote to SR code 3.2.13, and we propose to extend this footnote to include clarifications of the terms ‘high frequency’ and ‘instant win’ lotteries to better reflect the terms used in the RTS. In SR Code 3.2.13 below, the new proposed text is shown in bold in the footnote, for ease of reference; all other text in the code is existing text.

## 3.2 Access to gambling by children and young persons

### Social responsibility code provision 3.2.13

#### Access to gambling by children and young persons – remote lottery SR code

#### All remote lottery operating licences issued to non-commercial societies, local authorities and external lottery managers

1. Licensees must have and put into effect policies and procedures designed to prevent underage gambling, and monitor the effectiveness of these.
2. Such procedures must include:
  - a. warning potential customers that underage gambling is an offence
  - b. requiring customers to affirm that they are of legal age
  - c. regularly reviewing their age verification systems and implementing all reasonable improvements that may be made as technology advances and as information improves

- d. ensuring that relevant staff are properly trained in the use of their age verification procedures; in particular anyone who sell lottery tickets including canvassers and customer services staff must be appropriately trained in the use of secondary forms of identification when initial verification procedures fail to prove that an individual is of legal age
- e. enabling their gambling websites to permit filtering software to be used by adults (such as parents or within schools) in order to restrict access to relevant pages of those sites
- f. in the case of any UK resident customer who deposits money using any type of payment method other than a credit card, and unless the licensee has established that a third party has satisfactorily carried out age verification, the following age verification procedures apply:
  - i. the case of both subscription lotteries and low frequency lotteries\*, and provided it is clear in the terms and conditions that those under the age of 16 are not permitted to participate and that the prizes will not be paid out to those found to be under 16, customers must be required to verify their age before being able to make any subscription or purchase entry into the lottery. (The operator is expected to conduct a programme of random checks of users who self-verify for compliance with age restrictions)
  - ii. in every other case verifying additional information about the customer, such as carrying out searches of credit reference and other databases that list names and addresses of individuals over the age of 16
  - iii. carrying out secondary age verification checks in any circumstances which give the operator reason to suspect that the person may be underage
  - iv. not permitting the customer to withdraw any winnings from their account until age verification has been satisfactorily completed
  - v. in any event, in a case which falls within ii above, a requirement that if age verification has not been satisfactorily completed within 72 hours of the customer applying to register to gamble and depositing money:
    - the account will be frozen
    - no further gambling will be permitted until age verification has been successfully completed
    - if, on completion of age verification the customer is shown to be underage, the operator must return to the customer any money paid in respect of the use of gambling facilities, but no winnings shall be paid.
- g. in the case of any non-UK resident customer who deposits money using any type of payment method other than a credit card, and unless the licensee has established that a third party has satisfactorily carried out age verification, the following age verification procedures:
  - i. taking all reasonable steps to make use of information available for age verification purposes from whichever country the potential customer is resident in
  - ii. each of the following steps, unless they cannot reasonably be implemented or, in the case of the fourth bullet point, a period of more than 72 hours was reasonably required:
    - verifying additional information about the customer, such as carrying out searches of credit reference and other databases that list names and addresses of individuals over the age of 18
    - carrying out secondary age verification checks in any circumstances which give the operator reason to suspect that the person may be underage



- not permitting the customer to withdraw any winnings from their account until age verification has been satisfactorily completed
- a requirement that if age verification has not been satisfactorily completed within 72 hours of the customer applying to register to gamble and depositing money:
  - the account will be frozen
  - no further gambling will be permitted until age verification has been successfully completed
  - if on completion of age verification the customer is shown to be underage all deposits held by the operator are returned to the customer and no winnings paid.

h. in the case of any customer who registers to gamble and deposits money using a credit card, conducting a programme of random checks of credit card users for compliance with age restrictions.

**\* For the purposes of this code:**

- a **'low frequency lottery'** is a series of separate lotteries promoted on behalf of the same non-commercial society or local authority, or as part of the same multiple society lottery scheme, in respect of which there is a period of at least two days between each lottery.
- an **'instant win lottery'** is a lottery in which every draw takes place either before, or at the point of, purchase of tickets by participants in the lottery.
- a **'high frequency lottery'** is a lottery in which any draw takes place less than one hour after a draw in a previous lottery promoted on behalf of the same non-commercial society or local authority or as part of the same multiple society lottery scheme.

### Consultation question

Q4. Do you have any views on how we define instant win, low and high frequency lotteries, for the purposes of those codes where separate proportionate requirements are proposed?

## 4 How to respond to this consultation

- 4.1 The Commission is committed to a full and open consultation and would welcome comments on any aspect of this document. A response template will be available on our website. We would prefer respondents to complete the response template provided and send it by email to: [consultation@gamblingcommission.gov.uk](mailto:consultation@gamblingcommission.gov.uk)
- 4.2 Alternatively, responses can be sent by post to:  
Lottery operating licence consultation  
Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP
- 4.3 The deadline for responses to this consultation is **30 September 2017**. Respondents are of course welcome to comment on any or all of the areas addressed by this consultation.
- 4.4 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding as an individual, please mention your own interest.
- 4.5 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 and/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, we will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 4.6 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 by reference to our website at [www.gamblingcommission.gov.uk](http://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.
- 4.7 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, licensing 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.
- 4.8 This consultation is being conducted in line with the Cabinet Office consultation principles published in January 2016. The criteria are listed on [www.gov.uk](http://www.gov.uk) and the Commission's website, together with details of who to contact with any comments on the consultation procedure or complaints about the way it is being conducted.

## 5 Summary of consultation questions

5.1 The following table recaps the consultation questions as set out in order.

### Questions

- Q1. Do you agree that SR Code 4.3.1 should be added to provide greater transparency on the use of lottery proceeds by societies and local authorities?
- Q2. Do you agree that SR Code 4.3.2 should be added to provide greater transparency to consumers on which societies are promoting their lotteries through a single brand?
- Q3. Do you have any other comments on the proposed new SR Codes as drafted?
- Q4. Do you have any views on how we define instant win, low and high frequency lotteries, for the purposes of those codes where separate proportionate requirements are proposed?

Gambling Commission July 2017

---

**Keeping gambling fair and safe for all**

[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)