

Prize competitions and free draws: house competitions

Advice note, May 2009

- 1.1** The Gambling Commission (the Commission) has received a number of enquiries from the public with regard to house competitions. A house competition refers to the attempted use of a prize competition by a homeowner to realise the value of their property.
- 1.2** The Commission regulates gambling and has no regulatory responsibility for prize competitions. It does however monitor the boundary between prize competitions, free draws and lotteries in order to ensure that those operating lotteries are properly licensed.
- 1.3** In October 2008 the Commission issued a press release entitled *Homeowners urged to be aware of rules on house competitions* which is available on our website. It set out the Commission's position with regard to house competitions and warned homeowners that attempts to sell homes using prize competition schemes could potentially fall foul of the [Gambling Act 2005](#) (the Act).
- 1.4** Since that date a number of organisers have closed down or significantly amended their schemes following correspondence with the Commission. To avoid any misunderstandings, the Commission is now publishing this advice note. It draws on the Commission's experience to date in order to assist members of the public.

In summary

- The Commission does not in any circumstances 'approve' prize competitions which remain free of statutory control under the Gambling Act 2005.
- Organisers considering running a house competition should read the Commission's guidance on prize competitions and free draws and take independent legal advice before proceeding.
- Organisers of house competitions are likely to attract regulatory intervention from the Commission.
- A decision over prosecution in a case where an operator persists in the face of the Commission's concern will be made with due regard to the public interest and in line with the Code for Crown Prosecutors.
- The circumstances in every case are different and a decision over prosecution in one case will not necessarily set a precedent for others.
- Organisers of house competitions may be liable for taxation and should contact HM Revenue and Customs before proceeding.

2 Are house competitions lawful?

- 2.1** In principle an individual disposing of a property through a house competition can use a genuine prize competition to do so. Genuine prize competitions are free of statutory control under the Act provided they require sufficient skill, judgment or knowledge to either deter a significant proportion of potential entrants from participating or eliminate a significant proportion who do enter. House competitions that do not meet the test of skill, judgment or knowledge set out in [section 14 of the Act](#) are classed as lotteries.

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- 2.2 Ultimately, it is the responsibility of organisers to ensure their house competition meets the requirements of a prize competition and that they are acting legally.

3 The Commission's role in monitoring the boundary between house competitions and lotteries

- 3.1 The Commission monitors the boundary between prize competitions, free draws and lotteries in order to ensure that those operating lotteries are properly licensed. The Commission has no regulatory responsibility for prize competitions.
- 3.2 In some cases, we have become aware that the organisers of some house competitions claim to have received 'approval from the Gambling Commission'. This is not correct. The Commission does not, in any circumstances, approve house competitions.
- 3.3 In October last year a warning was published to all homeowners organising or considering such schemes that they risked prosecution if found to have promoted an illegal lottery. Anyone considering such a competition was advised to take account of the Commission's guidance *Prize competitions free draws: the requirements of the Gambling Act 2005* which is available on our website and to take independent legal advice before proceeding.
- 3.4 Where we have concerns that a house competition may be an illegal lottery, the Commission will normally write to the organisers to alert them and to reiterate the tests that they will have to meet to ensure that their scheme meets the legal requirements in [section 14 of the Act](#) and is therefore **not** a lottery.
- 3.5 The letter requests information from the organisers in order to assess whether the scheme does amount to a genuine prize competition. We also advise the organisers to seek legal advice before commencing or continuing and where they cannot assure themselves of the legality of what they are doing; to cease activity and return monies already taken.
- 3.6 In practice, the Commission has written to over 50 organisers of house competitions and the majority appear to have had significant difficulty in satisfying themselves that their house competition is legal.

4 The Commission's role in dealing with potentially unlawful house competition schemes

- 4.1 Where the Commission considers that a scheme is an illegal lottery, a criminal investigation is likely to be commenced. This has already happened in one case.
- 4.2 At the conclusion of an investigation the Commission will decide whether to proceed with a prosecution and, in doing so, will have regard to the public interest and the Code for Crown Prosecutors. This means that a prosecution will not be pursued unless there is a realistic prospect of conviction and if it is considered to be in the public interest.
- 4.3 The circumstances in every case are different and a decision over prosecution in one case will not necessarily set a precedent for others.

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For further information please visit our website at: www.gamblingcommission.gov.uk
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