

## Appendix 2: Code of practice for Commissioners

### Introduction

1. The Gambling Commission's (the Commission) position as the regulator of the gambling industry requires that the Commission, Commissioners and employees are able, at all times, to demonstrate that his/her actions and behaviour are beyond reproach. To support this, the Commission has agreed codes of conduct for its employees and for Commissioners that reflects best practice and the Commission's own values. It also sets out the standards of behaviour that are expected of everyone who works with us, as employees, contractors or consultants etc and the ways in which the Commission will help you to avoid any unwarranted criticism or pressure.

### Gambling Commission values

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|---------------------|---|
| <b>Fair</b>         | We will be consistent, proportionate, evidence-based and free from bias, prejudice or discrimination in all that we do.   |
| <b>Accountable</b>  | We will be frank about the way in which we work and reach decisions in the public interest, while safeguarding the personal and confidential data that we hold.     |
| <b>Professional</b> | We will ensure that we have the right skills and knowledge base and follow international regulatory best practice.  |
| <b>Constructive</b> | We will work positively and courteously with our internal and external stakeholders to ensure that their needs and views are taken fully into account in all we do. |

2. The Commission expects its Commissioners and staff to behave with utmost integrity. It also accepts that there is a need to avoid not only actual impropriety or regulatory bias, but also the perception of such, however mistaken. This Code is intended to support you as a Commissioner in achieving this.
3. This document sets out the Code of Practice for the Commissioners of the Commission.
4. A separate code has been agreed for Commission employees and others who work for us. This Code reflects the revised model 'Code of Practice for Board Members of Public Bodies' published by the Cabinet in October 2004, with appropriate modifications to reflect the particular circumstances of the Commission. It has been agreed with the Department for Culture, Media and Sport (DCMS) and was adopted by the Commission at its meeting on 20 July 2006.
5. This Code sets out the framework within which you must conduct yourself as a Commissioner. The detailed policies under which we work are set out in the Commission's Standing Orders, Financial Regulations and the Employee Handbook. These support the principles set out in this code and you should refer to them for detailed guidance. The 'Seven Principles of Public Life' are set out at Annex A and supporting information on the Commission's key internal and external relationships is in Annex B. This Code applies to Commissioners and you will be required to confirm that you have read this Code as a part of your induction.

## Public service values

6. As a Commissioner, you will at all times:
- observe the highest standards of propriety involving impartiality, integrity and objectivity in relation to the stewardship of public funds and the management of the organisation
  - seek to maximise the value for money of the services, delivered in the most economical, efficient and effective way, within available resources, and with independent validation of performance achieved wherever practicable
  - be accountable to Parliament, users of services and individual citizens and employees for the activities of the Commission, its stewardship of public funds and the extent to which key performance targets and objectives have been met
  - in accordance with government policy on openness and responsiveness, comply with the requirements and principles of the Freedom of Information Act 2000.

## The role of the Chairman

7. The Chairman has particular responsibility for providing effective strategic leadership on matters such as:
- formulating the Commission's strategy for discharging its statutory duties and meeting the financial targets agreed with DCMS
  - encouraging the highest standards of propriety and promoting efficient and effective use of staff and other resources
  - ensuring that the Commission, in reaching decisions, takes appropriate account of guidance provided by the Secretary of State and/or DCMS
  - representing the views of the Commission to the industry and to the general public
  - providing an assessment of the performance of individual Commissioners, on request, when he/she is being considered for re-appointment or for appointment to the board of some other public body.
8. The Chairman will ensure that the Commissioners meet at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Commissioners.
9. Communications between the Commissioners and the responsible minister will normally be through the Chairman, except where the Commissioners have agreed that an individual member should act on his/her behalf.
10. Nevertheless, as an individual Commissioner, you have the right of access to ministers on any matter which you believe raises important issues relating to his/her duties as a Commissioner.
11. In such cases the agreement of the rest of the Commissioners would normally be sought.
12. The Chairman will ensure that, when you take up office, you are fully briefed on the terms of your appointment and on your rights, duties and responsibilities.
13. You will be given a copy of this Code and other relevant background material. The Chairman will encourage new Commissioners to attend a suitable induction programme.

## The role of the Chief Executive

14. The Chief Executive, as Accounting Officer for the Commission, is responsible to Parliament and to the DCMS's Accounting Officer for the resources under his/her control. This role carries with it personal responsibility for the propriety and regularity of the Commission's finances; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of resources. The Commission's Accounting Officer also has responsibility to see that appropriate advice is tendered to Commissioners on all these matters.
15. The Chief Executive or another employee who is authorised to act on behalf of the Commission will normally be the main point of contact between the Commission and the DCMS on day-to-day matters.
16. You will be provided with a copy of 'The Responsibilities of a NDPB Accounting Officer', which provides more detailed guidance of the role of an Accounting Officer.

## Corporate responsibilities of Commissioners

17. As Commissioners, you have corporate responsibility for ensuring that the Commission complies with any statutory or administrative requirements for the use of public funds.
18. Other important responsibilities include:
  - ensuring that high standards of corporate governance are observed at all times
  - establishing the overall strategic direction of the Commission within the relevant statute and the policy and resources framework, agreed with the responsible Minister
  - ensuring that the Commission operates within the limits of its statutory authority and any delegated authority agreed with DCMS and in accordance with any other conditions and standards relating to the use of public funds
  - ensuring that, in reaching decisions, the Commission takes appropriate account of any guidance issued by DCMS
  - formulating a strategy for implementing the requirements of the Freedom of Information Act 2000
  - ensuring that the Commission takes responsibility for sustainable development and operates within the Framework of the Sustainable Development Strategy
  - ensuring that the Commission manages its estate sustainably in line with the Government's Framework for Sustainable Development on the Government Estate.

## Responsibilities of individual Commissioners

19. You should follow the 'Seven Principles of Public Life' set out by the Committee on Standards in Public Life (the Nolan Committee).
20. The principles are attached in Annex A.
21. As an individual Commissioner you must:
  - undertake to comply at all times with this Code of Practice for Commissioners of the Commission and with rules relating to the use of public funds
  - act in good faith and in the best interests of the Commission
  - not misuse information gained in the course of your public service for personal gain or for political purpose; nor seek to use the opportunity of public service to promote your private interests or those of connected persons, firms, businesses or other organisations; and declare publicly any private interests which may be perceived to conflict with your public duties

- ensure that you comply with the Commission's rules on the acceptance of gifts and hospitality and on gambling.
22. You should not occupy paid party political posts or hold particularly sensitive or high profile unpaid roles in a political party. Subject to these restrictions, you are free to engage in political activities, provided that you are conscious of your general public responsibilities and exercise a proper discretion, particularly in regard to the work of the Commission. On matters directly affecting Commission work, you should not make political speeches or engage in other political activities.
  23. You should abstain from all controversial political activities.
  24. The restrictions in paragraph 22 do not apply to Commissioners who are Members of Parliament (in those cases where Members of Parliament are eligible to be appointed), to local councillors or to Peers in relation to his/her conduct in the House of Lords.
  25. The arrangements for appointing individual Commissioners make it possible to remove him/her from office if he/she fails to perform the duties required of a Commissioner to the standards expected of persons who hold public office.

### **Gambling by Commissioners**

26. The Commission recognises that, with gambling becoming a more mainstream leisure activity and the Commission's remit being extended to cover betting and UK based remote gambling, a total ban on gambling by Commissioners would be unduly restrictive. Furthermore, a total ban on either gambling or on visits to gambling premises could be an obstacle to the recruitment of well-informed Commissioners and could cut Commissioners off from direct experience of the sector he/she is regulating.
27. The main risk of bias or, more likely, the perception of bias, in regulatory decisions comes from the development of actual or apparent social relationships between Commissioners and gambling operators and their employees. In addition, conspicuous large wins or losses by a Commissioner could lead to misplaced speculation about the integrity of the regulatory process. These risks principally arise where Commissioners have personal contact with gambling operators' managers and employees.
28. In remote gambling, there is no face-to-face contact and the risk is considered to be correspondingly lower. Moreover, remote gamblers (those using phone, television or internet) typically use accounts and bank and credit cards, which provide an audit trail and a means of investigating and refuting allegations.
29. To address these issues the Commission agreed a policy on gambling by Commissioners in December 2005. This is set out in Annex C.

### **Handling conflicts of interests**

30. You should avoid, as far as reasonably possible, involvement in any personal or business interests which may conflict with your responsibilities as members of the Commission. You should also ensure that you comply with the Commission's rules on links with individuals or organisations with whom the Commission conducts business, on shareholdings and other private investments and on gaming club membership and gambling (as described above). A copy of these rules will be supplied to you. You must declare any such personal or business interests to the Director of Finance (who will maintain the register of such interests) as soon as he/she is aware of them (and in any event within 14 days of becoming so aware) and discuss any concerns that he/she has about potential conflicts with the Chairman or the Chief Executive.

31. The Director of Finance will maintain the Commission's register of such interests, listing direct or indirect pecuniary interests<sup>1</sup> which members of the public might reasonably think could influence Commissioners' judgement.
32. You should also register any non-pecuniary interests<sup>2</sup> which relate closely to the Commission's activities and any relevant interests of close family members living in your household.<sup>3</sup>
33. Such interests are most likely to be interests and direct investments in the leisure sector. The Commission's Annual Report will give information on the register and how access to it may be obtained.
34. You should not participate as a Commissioner in the discussion or determination of any matters in which you have a direct, significant<sup>4</sup> pecuniary interest. When an interest is not of a direct pecuniary kind, you should consider whether your participation in the discussion or determination of a matter might reasonably be considered to suggest any risk of bias, in the sense that Commissioners might, unwittingly or otherwise, unfairly regard with favour or disfavour the case of a party to the matter under consideration.
35. In considering whether any danger of bias might be perceived to exist, you should assess whether you, a close family member, or a firm, business or organisation with which you are connected are likely to be affected more than the generality of those affected by the decision in question.
36. Where you declare a possible conflict arising from an indirect interest, it will be for the meeting of Commissioners to determine whether that conflict is sufficient to require you to withdraw from the meeting for that item.
37. Where, in accordance with the above, a Commissioner does not participate in a discussion, he/she will normally withdraw from that part of the meeting. This is because the continued presence of someone who had declared a direct interest, or who was deemed to have an indirect interest, might be thought likely to influence the judgement of the other Commissioners.
38. Whether or not you are able, in the light of the considerations above, to participate in a particular discussion or determination, you should declare, as soon as practicable after a meeting begins, if you have an interest, pecuniary or otherwise, in a matter that is to be considered. You should also disclose any such interests of which you are aware on the part of close family members.
39. You should also consider whether you need to disclose relevant interests, known to you, of any other persons or organisations, which members of the public might reasonably think could influence your judgement.
40. You should adopt safeguards to prevent conflicts of interests arising from acceptance of outside appointments during, or within six months after your tenure as a Commissioner, taking account of guidance from DCMS. If you intend to take up any such appointments, you should notify the Chairman, who will then determine whether holding such an appointment would be appropriate, taking advice if necessary from the Commission's Chief Executive who is also the Accounting Officer.

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<sup>1</sup> Indirect interests arise from connections with bodies which have a direct pecuniary interest or from being a business partner of, or being employed by, a person with such interests.

<sup>2</sup> Non-pecuniary interests include those arising from membership of clubs and other organisations.

<sup>3</sup> Close family members are personal partners and children.

<sup>4</sup> A significant interest in the leisure sector is one which a reasonable observer might think likely to affect a Commissioner's judgement.

## **Personal liability of Commissioners**

41. Although any legal proceedings initiated by a third party are likely to be brought against the Commission, in exceptional circumstances proceedings (civil, or in certain cases, criminal) may be brought against the Chairman or individual Commissioners. For example, a Commissioner may be personally liable if he/she makes a fraudulent or negligent statement which results in loss to a third party.
42. Commissioners who misuse information gained by virtue of his/her position may be liable for breach of confidence under common law or may commit a crime under insider dealing legislation.
43. However, the government has indicated that individual Commissioners, who have acted honestly and in good faith, will not have to meet any personal civil liability which is incurred in the execution, or purported execution, of his/her Commission functions out of his/her own personal resources. This will not apply where the Commissioner has acted recklessly. The Commission will indemnify any Commissioner so affected.
44. If you require further advice on this issue, you should consult the Director of Finance or DCMS's Chief Operating Officer.

## **Openness and responsiveness**

45. You should conduct all of your dealings with the public in an open and responsible way, ensuring compliance with the Freedom of Information Act 2000, consistent with the nature of the Commission's work and the need for confidentiality on commercial or other grounds.

## **Accountability for public funds**

46. You have a duty to ensure that public funds are properly safeguarded and that, at all times, the Commission conducts its operations as economically, efficiently and effectively as possible.
47. You are responsible for ensuring, insofar as is reasonable, that the Commission does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure.
48. The Chief Executive and legal advisers will normally advise Commissioners on these matters.
49. As part of your responsibilities for the stewardship of public funds, you should ensure that a full statement of such resources and their use is included in the Annual Report and Accounts.

## **Individual Commissioner's concerns about the Commission**

50. If you have concerns about systematic and sustained failures in either the Commission's processes or strategic decisions which are not being addressed by the Commission, you should either raise it with DCMS's Director General (Economic Impact) or, through them with the Permanent Secretary and responsible minister, if appropriate. Before exercising this right of access, a Commissioner should normally raise his/her concerns with the Chairman or the Commission as a whole.

## **Annex A: The seven principles of public life**

### **Selflessness**

1. Holders of public office should take decisions solely in terms of the public interest.
2. He/she should not do so in order to gain financial or other material benefits for themselves, his/her family or his/her friends.

### **Integrity**

3. Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence he/she in the performance of his/her official duties.

### **Objectivity**

4. In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### **Accountability**

5. Holders of public office are accountable for his/her decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to his/her office.

### **Openness**

6. Holders of public office should be as open as possible about all the decisions and actions that he/she takes.
7. He/she should give reasons for his/her decisions and restrict information only when the wider public interest clearly demands it.

### **Honesty**

8. Holders of public office have a duty to declare any private interests relating to his/her public duties, and to take steps to resolve any conflicts arising in a way that protects public interest.

### **Leadership**

9. Holders of public office should promote and support these principles by leadership and example.

## **Annex B**

### **Relationship with DCMS**

1. The Secretary of State for the Department of Culture, Media and Sport (DCMS) is answerable to Parliament for the policies and performance of all public bodies sponsored by DCMS, including his/her use of resources and the policy framework within which he/she operates.
2. The respective roles of DCMS and the Gambling Commission (the Commission) are set out in the Management Statement and Financial Memorandum which became effective from 1 October 2005.

## **Strategic planning and control**

3. One of the tasks of the Commissioners is the oversight of the production of corporate and business plans. The process of preparing such documents provides an opportunity for agreeing, with the responsible minister or officials on his/her behalf, the policy and resources framework within which the Commission will discharge its duties, and for determining its key strategic objectives and targets.
4. Such targets should normally cover areas such as the Commission's financial performance, the efficiency and effectiveness of its operations, and the quality of the services it provides.

## **Delegation**

5. Commissioners serve on a part-time basis (with the exception of the Chief Executive who serves full time). To the extent that that is consistent with the originating legislation, responsibility for day-to-day management matters is delegated to staff within a clearly understood framework of strategic control.
6. Internal guidance is agreed by the Commissioners to cover those matters delegated to staff and those reserved for decision by Commissioners. Reserved matters include issues of corporate strategy, key strategic objectives and targets, important decisions in individual cases, major decisions involving the use of financial and other resources and personnel issues including key appointments and standards of conduct.
7. The Commissioners, as necessary and appropriate, also delegate responsibility for specified matters to individual Commissioners or committees of Commissioners. Decisions taken by individual Commissioners or committees are recorded in written minutes available to the Commissioners as a whole.

## **Openness and responsiveness**

8. Commissioners and staff will conduct all his/her dealings with the public in an open and responsible way, ensuring compliance with the 'Code of Practice on Access to Government Information'.
9. Wherever possible, consistent with the nature of its work and the need for confidentiality on commercial or other grounds, the Commission will publicise its views, advice and policy decisions and reasons for them. The Commission will make publicly available its corporate and business plans and annual report and will consult stakeholders and members of the public on relevant issues.
10. The Commission will ensure it can demonstrate that it is using resources efficiently and to good effect, with due propriety, and without grounds for criticism that public funds are being used for private, partisan or party political purposes. The Commission has established a complaints procedure, covering both maladministration and failure to provide access to information, details of which are given in its annual report.

## **Accountability for public funds**

11. Commissioners have a duty to ensure that public funds, which include all forms of receipts from fees, charges and other sources are properly safeguarded and that at all times, the Commission conducts its operations as economically, efficiently and effectively as possible, with full regard to the relevant statutory provisions and to guidance in 'Government Accounting'.
12. Commissioners are responsible for ensuring that the Commission does not exceed its powers or functions, whether defined in statute or otherwise, or through any limitations on its authority to incur expenditure.

13. The Chief Executive and legal advisers will normally advise Commissioners on these matters.

### **Annual Report and Accounts**

14. As part of his/her responsibilities for the stewardship of public funds, the Commissioners must ensure that a full statement of the use of such resources included in the Annual Report and Accounts.
15. The Accounts should be prepared in accordance with the accounts direction and other such guidance as may be issued, from time to time, by DCMS and Treasury, including 'Executive Non-Departmental Public Bodies: Annual Reports and Accounts Guidance'.
16. The Annual Report and Accounts will provide a full description of the Commission's activities, state the extent to which key strategic objectives and agreed financial and other performance targets have been met, list the names of the current Commissioners and senior employees, and provide details of the remuneration of Commissioners and senior employees in accordance with Treasury guidance. The Annual Report will contain information on access to the register of interests in accordance with paragraph 31 of the Code.

### **Audit Committee**

17. The Commission will establish an Audit Committee as a committee of the Commissioners.
18. The Committee should consist of non-executive Commissioners and should be chaired by a non-executive Commissioner, other than the Chairman, who has experience of financial matters.
19. The responsibilities of the Audit Committee will overlap with those of the Chief Executive.
20. It is envisaged that the Chief Executive will normally attend all meetings of the Audit Committee, unless his/her own performance is being discussed.

### **The Commission as employer**

21. The Commissioners will ensure that:
  - the Commission complies with all relevant legislation and that it employs suitably qualified staff who should be able to discharge his/her duties in accordance with the high standards expected of staff employed by the Commission. All employees should be familiar with the Commission's main aims and objectives
  - all employees are made familiar with the Commission's main aims and objectives
  - the organisation adopts management practices which use resources in the most economical, efficient and effective manner
  - the Commission's rules for recruitment and management of employees provide for appointment and advancement on merit on the basis of equal opportunity for all applicants and employees
  - in filling senior employee appointments, the Commission will satisfy itself that an adequate field of qualified candidates is considered, and will always consider the merits of full and open competition when recruiting external candidates
  - employees and Commissioners have appropriate access to expert advice and training opportunities in order to enable he/she to exercise his/her responsibilities (in line with wider government commitments on training strategies)

22. The Commission has a code of conduct for its employees (Employee Code of Conduct), which is based on the model issued for executive Non-Departmental Public Bodies by Cabinet Office in September 2004, but with modifications – as agreed with DCMS – to take account of the Commission’s particular characteristics and circumstances.
23. The Code covers arrangements enabling employees to raise concerns about propriety with a nominated official or Commissioner in the first instance and subsequently, if necessary, with a nominated official in DCMS. The Code also includes safeguards to prevent conflicts of interest when employees leave.
24. The Commissioners have a responsibility to monitor the performance of the Chief Executive and other senior employees. He/she will ensure (through the Chairman) that he/she has access to the information and advice required to make the necessary judgements, including those involved in determining any performance-related bonuses.

## **Annex C: Gambling by Commissioners**

1. The Gambling Commission (the Commission) expects its Commissioners and employees to behave with utmost integrity. It also accepts that there is a need to avoid not only actual impropriety or regulatory bias but also the perception of such, however mistaken. The Gaming Board for Great Britain addressed this issue by agreeing a near total ban on both visits to and taking part in gambling in licensed premises.
2. However, with gambling becoming a more mainstream leisure activity and the Commission’s remit being extended to cover betting and UK based remote gambling, a total ban on gambling by Commissioners would be unduly restrictive. Furthermore, a total ban on either gambling or on visits to gambling premises could be an obstacle to the recruitment of well-informed Commissioners and could cut them off from direct experience of the sector they are regulating.
3. The Commissioners have therefore agreed the following code of behaviour to reduce the risk of bias or impropriety or perceptions of them. These complement the strict hospitality guidelines.
4. The main risk of bias or, more likely, the perception of bias, in regulatory decisions comes from the development of actual or apparent social relationships between Commissioners and gambling operators and their employees.
5. In addition, conspicuous large wins or losses could lead to misplaced speculation about the integrity of the regulatory process. These risks principally arise where Commissioners have personal contact with gambling operators’ managers and employees.
6. In remote gambling, there is no face-to-face contact and the risk is correspondingly lower. Moreover, remote gamblers (those using phone, TV or internet) typically use accounts and bank and credit cards, which provide an audit trail and a means of investigating and refuting allegations.
7. Commissioners have therefore agreed the following conventions to reduce the risk of real or apparent bias:
  - Commissioners will not gamble in terrestrial bingo halls, casinos or bookmakers’ premises, although they may visit such premises on official business. Such visits may include unannounced visits to obtain a better understanding of the sector. They may also visit such premises in a private capacity, but obviously will avoid doing so if they are aware of any impending relevant regulatory decision in which they might be involved. Any such official

or private visits will be notified to the Commission's internal compliance manager if they constitute more than just a casual brief visit

- Commissioners will not gamble with on-course bookmakers, but may visit horse and greyhound racetracks
  - Commissioners will not accept winnings from lotteries licensed by the Commission
  - Commissioners may gamble remotely, for example by phone, television or internet
  - Commissioners who gamble remotely will notify the Commission's internal compliance manager of any significant individual wins or losses (for example, above £500). They should also provide any such additional information which the Commission may need. Such information will be held in confidence but be available to those investigating any allegation
  - Commissioners will inform the Chairman if they are found in such financial difficulties that they could be thought vulnerable to allegations of impropriety.
8. Commissioners have therefore decided that the conventions described above will take effect immediately.