

## Update on removal of requirement for personal functional licences (PFLs) in casinos

For Board approval	
For Board briefing	
For Board steer	
For Board information	

**Prepared by:**

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## Executive summary

1. In September 2015, the Board approved engagement with DCMS with a view to consulting with the industry on the removal of the requirement for personal functional licences (PFLs) in casinos (reference Board Paper GCP(15)56).
2. The Commission engaged with DCMS which was supportive of the proposal in principle. At that point, it appeared to both the Commission and DCMS that a change to primary legislation would not be needed to achieve this.
3. Subsequently, in drawing up detailed plans for the consultation, it has become apparent that it will not be possible to remove PFLs without a change to primary legislation.
4. The Commission remains of the view that removal of the requirement for PFLs poses little risk to the licensing objectives, and operators have primary responsibility for the selection and management of staff that presently hold PFLs.
5. It is clear, however, that the casino sector has serious reservations about the removal of the requirement for PFLs.
6. The Executive has considered three options as a consequence:
  - a) to continue with the present requirement for PFLs in casinos, notwithstanding the very limited regulatory protections they bring.
  - b) a partial licensing regime, where the requirement for PFLs would no longer be mandatory but existing PFL holders could choose to continue to hold a PFL.
  - c) Seek to change primary legislation to allow the total removal of all PFLs.
8. This paper provides an update to the Board and sets out the views on the three options. The Executive has discussed the options and believes option c is preferable.
9. The Board is asked to endorse the view of the Executive.

## Background

10. The driver for the proposed consultation was that the Commission and the Board had agreed in September 2015 that consultation as to the removal of PFLs should begin on the basis that:
  - there was no longer a strong case for retaining PFLs in terms of their effectiveness in controlling risks to the licensing objectives
  - there was an opportunity to reduce the regulatory burden on the casino sector and achieve parity with other industry sectors.
  - savings to the industry in application and maintenance fees to the tune of some £353,449<sup>1</sup> per annum
  - any loss in Commission income £242,165 per annum in PFL application fees and £171,825 per annum in maintenance fees, £413,990 in total, would be offset by a corresponding fall in the costs of administrating and regulating the PFL regime, with the result that the removal of the PFL requirement would be income/cost neutral, with resource redeployed to other priorities.
11. The agreement was made on the understanding that no change to legislation was required to achieve removal of the requirement for PFLs in their entirety. However, subsequent legal advice has changed that position. Whilst it is possible to cease

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<sup>1</sup> subject to operators not undertaking any external checks (with associated costs), e.g. Disclosure and Barring

accepting new applications for PFLs subject to none of the provisions of section 114 (Lapse) or 113 (Surrender) of the Gambling Act 2005 applying, if a PFL holder chooses to pay the five yearly maintenance fee and remains suitable, current legislation obliges the Commission to accept the fee and for the licence to continue to be in force.

12. The Commission engaged informally with the casino sector at a sector meeting in November 2015 to explain our view. Those present expressed serious reservations about the decision. They felt that PFLs were instrumental in upholding the licensing objectives by ensuring that only suitable individuals were employed and in attracting the right calibre of applicants. The Commission remains of the view that checks completed by the licensing workstream can be completed by casino employers and this is an appropriate role for the operator to undertake.

## **Executive view**

13. The Commission has the power to set licence conditions determining which posts require PFLs and could therefore remove the requirement for those working in the casino sector to hold a PFL. However not having the power to remove a licence once in issue would create a partial licensing regime until such time as a change to legislation could be achieved.
14. The Executive is concerned about the operational complications that creating a partial licensing regime would create, and the casino sector's resistance to the removal of the requirement for PFLs in that context.
15. The Executive has discussed the options available:
  - continue with the present requirement for PFLs in casinos notwithstanding the limited regulatory protections they bring.
  - introduce a partial licensing regime, where the requirement for PFLs would no longer be mandatory but existing PFL holders could choose to continue to hold one.
  - seek change to primary legislation to allow the total removal of PFLs.
16. The Executive remains of the view that there is no compelling argument for retaining PFLs in terms of their effectiveness in controlling risks, that the regulatory burden can be reduced, but that the requirement for a change to primary legislation to remove PFLs in their entirety should be addressed. The Executive's preferred option is therefore option c.
17. In pursuing option c we should:
  - make our case, including publicly, for the removal of the requirement for PFLs on the basis that the costs and benefits remain.
  - engage with DCMs to secure their support for the required change to primary legislation and encourage them to look for early legislative opportunities to make that change.

## **Recommendations**

18. The Board support the Executive's proposed course of action in this matter.