

Enforcement policy in relation to the National Lottery

January 2018

1 Introduction

- 1.1 The Gambling Commission is the regulator of the National Lottery.
- 1.2 We grant a licence under section 5 of the National Lottery etc. Act 1993 (as amended) (hereafter referred to as the Act) and licences under section 6 of the Act to promote National Lottery games.
- 1.3 This Enforcement Policy (hereafter referred to as the policy) is a public statement. It aims to set out clearly our approach to enforcement and to demonstrate how we will use our powers in an appropriate and proportionate manner. It details the enforcement measures available and the factors that are likely to be considered by us when deciding on action to be taken.
- 1.4 We shall exercise our functions under this policy in the manner we consider the most likely to secure the following¹:
- (a) that the National Lottery is run, and every lottery that forms part of it is promoted, with all due propriety
 - (b) that the interests of every participant in a lottery that forms part of the National Lottery are protected
 - (c) subject to (a) and (b), that the net proceeds of the National Lottery are as great as possible.
- 1.5 We will, as necessary, work with other regulators and law enforcement agencies to ensure that we coordinate our respective powers. This will avoid duplication and inconsistencies and ensure that the most appropriate action is taken
- 1.6 This policy is a key part of the overall regulatory regime implemented by us. Although not bound by it, we will generally apply enforcement actions consistently with this policy. In the event of any departures from this, we will explain our reasons for doing so.

2 General principles

- 2.1 The general principles to which we will seek to apply overall in decisions as to regulatory action are as follows:

Proportionality

- 2.2 To only intervene where necessary with targeted enforcement actions appropriate to secure that the statutory objectives are met. These are set out at paragraph 1.4 of this policy. Our approach will be targeted and focused on the most important operational issues, factors and risks.

Consistency

- 2.3 To treat similar cases in a similar way unless there is a good reason not to. However, where there are repeated failures by the operator, we reserve our right to escalate enforcement action.

Evidence-based decision-making

- 2.4 To seek and make use of the best available evidence when making enforcement decisions.

¹ As per Section 4 of the Act

Accountability and transparency

- 2.5** To explain to key stakeholders how enforcement decisions are made and what actions have been taken. Key stakeholders include the operator, players, potential players (the general public), Parliament, the Government, consumer groups and any other interested parties.
- 2.6** We seek to be clear and open about our enforcement decisions and how they are arrived at. This will help ensure that there can be an understanding of our regulatory concerns and how regulatory and enforcement actions seek to address these.

Human rights compliant

- 2.7** To comply with our obligations under the Human Rights Act 1998 as a public authority.

3 Investigations

What will trigger an investigation?

- 3.1** A regulatory investigation may be commenced if the Commission thinks that the operator may have breached a licence condition or because there is an issue that gives rise to a risk to the statutory objectives set out in paragraph 1.4.
- 3.2** The first step in deciding whether to commence an investigation is to decide whether our regulatory powers should be used at all. It may be that before an investigation is commenced we decide that no further action is necessary.
- 3.3** Matters may come to our attention through a number of channels, including:
- compliance reviews
 - formal incident reports provided under licensing requirements
 - formal performance reports provided under licensing requirements
 - player complaints or enquiries to the Commission
 - analysis of trends associated with the above
 - issues raised by the operators staff and subcontractors and their staff (in accordance with procedures approved under licensing requirements)
 - public interest disclosures
 - condition 17 reviews.

How will an investigation be conducted?

- 3.4** The information received is initially reviewed and then submitted to the Issues Management Group, who decide how to progress the matter. It may be that we gather more information regarding the matter initially. If a decision is made to commence a formal investigation then a 'Notice of Investigation' will be sent in writing to the operator.
- 3.5** This policy sets a broad framework of the procedure that will usually be adopted, however we retain a discretion to conduct investigations in a manner we consider appropriate and proportionate.

Initial meetings

- 3.6** We may, either when considering whether to commence an investigation, or after notifying the operator that we propose to commence an investigation, hold an initial meeting with the operator to clarify and narrow the issues and to establish exactly what information will be sought during the investigation. However, in many cases, such an initial meeting will be unnecessary because the issues will be sufficiently clear.

Interviews

- 3.7** In addition to requesting specified information, we may wish to interview persons who we consider can supply relevant information in connection with the investigation. Such interviews may be recorded on tape. If an interview is recorded on tape we will inform the operator of this in advance. We reserve the right to use the contents of the interview as evidence.

Requests for information and/or documents

- 3.8** A request for the production of information will be made either orally or in writing, dependent upon the individual circumstances of each case. Wherever possible, the operator or third party will be given a reasonable period of time to comply with the request. We will only ask the operator or third party to produce documents or records which we believe are necessary. Under condition 10 of the licence the operator shall in the manner prescribed provide the requested information to allow us to carry out our duties and exercise our powers under the Act. We are of the view that the operator/ third parties will not breach the requirements of the Data Protection Act (DPA) if they supply information that we have requested even if this relates to personal information that they hold. We have the power to request this information under DPA.

Preliminary findings following an investigation

- 3.9** At the conclusion of the investigation we will send a preliminary findings letter to the operator. The letter and documents which accompany it will normally contain details of the following:
- the facts found during the investigation
 - how those facts relate to any apparent breach of a licence condition or risk to the statutory objectives
 - notification of the recommendation as to what (if any) regulatory action should follow the investigation
 - details of the documents, and other evidence on which we rely
 - details of any documents which might be said to undermine our case or assist the operator's case.
- 3.10** The operator will then be offered the opportunity to make written representations in response to our preliminary findings. The operator will normally be given 21 days to make such representations, however a shorter period may be imposed in cases where there is a need for urgency.
- 3.11** Whilst we recognise that there are likely to be many cases in which there will be no dispute of fact, if there is a dispute of fact, we will apply the civil standard of proof when making findings of fact.

4 Decision making

Who will make decisions?

- 4.1 Decisions will be taken in accordance with our *Corporate Governance Framework* which sets out the *Delegation of Functions under the National Lottery etc Act 1993* (as amended) (contained at Appendix 4 of that document).

How will decisions be reached?

- 4.2 The operator will have an opportunity to make written representations before a decision is reached as to whether they have acted in breach of a licence condition or otherwise not acted in accordance with the statutory objectives under section 4 of the Act as set out at paragraph 3.10 above. The operator will also have an opportunity to make written representations as to what sanction or other action (if any) we decide to impose or take².
- 4.3 We will follow a four staged approach as to decisions on what regulatory action (if any) should be taken. This approach is set out below:

Stage one

- 4.4 The decision maker should consider all of the circumstances of the case in determining what regulatory action (if any) should be taken, including but not limited to the factors set out below:

Outcomes for the National Lottery

- The extent to which the statutory objectives under section 4 of the Act have been compromised or placed at risk.
- The extent to which the National Lottery reputation is affected or potentially affected.
- The duration of the circumstances giving rise to the investigation and whether these continued after the operator became aware of the matter.
- The effectiveness and timeliness of any corrective action taken by the operator.
- The speed with which the operator brings the issue to our attention.
- Any compensatory measures taken or proposed to reduce the loss in sums paid to good causes.
- The level of public interest shown or anticipated in the case.

Outcomes for players involved

- The extent to which any players involved were disadvantaged, misled, and/or treated unfairly.
- The operator's pro-active role in making players aware of their complaints procedure and that players may refer issues to us if they remain dissatisfied.
- The restorative measures taken or proposed for players who have been disadvantaged.

Outcomes for good causes

- Extent to which proceeds to good causes were impacted upon
- Any compensatory measures taken or proposed to reduce the loss in sums paid to good causes.

² This is subject to the specific rules governing the imposition of Financial Penalties where the operator can request an oral hearing to make representations

Operator's financial gain from non-compliance

- The operator's financial gain or the potential for financial gain from non-compliance with licence conditions.

Operator's governance and controls

- The adequacy of steps taken to prevent recurrence.
- Whether the matters would have been apparent to a diligent operator.
- Whether the matters were the result of reckless or negligent actions.
- Whether the matters were the result of deliberate actions.
- The extent of similar matters or root cause problems in the past.
- The operator's effectiveness in managing licensee staff, contractors and retailers.
- The actions taken in bringing the case to our attention and the degree of cooperation with us.
- The extent to which the operator attempted to conceal matters from us.
- The prior involvement of senior management or lack of action on the part of senior management.

Additional factors specific to circumstances

- The impact on any sanction or other action on the commercial viability of the licensee.

Stage two

- 4.5** Having assessed the case by reference to the factors at Stage One, the decision maker should then consider the purpose of any sanction in line with the following sanction principles (this should not be read as a list or as principles that all need to be present):³

A sanction should aim to change non-compliant behaviour

- 4.6** To ensure that the operator changes in behaviour and moves back to compliance.

A sanction should aim to eliminate any operator financial gain or benefit from non-compliance⁴

- 4.7** In doing so, sanctions will ensure that any benefit to the operator or loss to good causes following on from licence breaches, financial or otherwise, can be recouped, removing any incentive towards non-compliance.

A sanction should aim to be responsive and consider what is appropriate for the operator and the regulatory issue

- 4.8** Discretion should be used in imposing sanctions, taking into account the reason for compliance failure. The aim will always be to bring the operator back to compliance and therefore a flexible approach is necessary in order to uphold a credible enforcement and sanctioning regime.

A sanction should aim to be proportionate to the offence and harm caused

- 4.9** The individual circumstances of the case should be considered, taking into account the nature and duration of the non-compliance and also the consequences including the extent of harm caused or the risk of harm posed.

³ These principles are adopted from the Macrory Report. 'Regulatory Justice: making Sanctions Effective. Cabinet Office November 2006

⁴ NB Insofar as this is in accordance with former Director General of the National Lottery's publication Financial Penalties: Principles and Procedures (contained at Appendix A) which states '...where there is a clear and direct financial loss of this kind I will not necessarily seek to recover all the loss'

A sanction should aim to restore the harm caused by regulatory non-compliance, where appropriate

- 4.10 In addition to ensuring the operator takes responsibility for its actions, consideration should be given to arrangements adopted by the operator for compensating disadvantaged players and to restoring any detriment to good causes.

A sanction aims to deter future non-compliance

- 4.11 It is important that the operator should expect that non-compliance with regulatory requirements will be investigated, and, if appropriate, be subject to enforcement action in accordance with this policy.
- 4.12 In order to reflect our unique regulatory position in relation to our National Lottery duties, in that we regulate one business operation and have a specific duty to maximise the returns to good causes, the wording of the principles has been adapted so we can apply these principles appropriately.
- 4.13 Following the use of any sanction or other action we will normally undertake assurance reviews and/or compliance checks on case issues. This will be in a timely manner dependent on the seriousness of the regulatory concerns and will assist in focusing the operator on future compliance and in the measuring of regulatory success. If matters remain unresolved it may be appropriate to take further enforcement action.

Stage three

- 4.14 Based on the assessment undertaken at stages 1 and 2 and all the circumstances of the case the decision maker will then consider what sanction is appropriate.
- 4.15 As a general principle, the earlier that disclosure of all relevant facts and appropriate admissions are made during the investigation process, the more credit will be given to the operator for making such a disclosure. The amount of credit to be given will be decided on a case by case basis.
- 4.16 The options for the decision maker are:
- no further action
 - notification of licence breach without the imposition of a financial penalty
 - undertakings (may be used in combination with sanctions)
 - requirement for an independent review (although this is not necessarily a matter which requires a prior investigation – see conditions 17.1 and 17.2 of the third licence to operate the National Lottery)
 - imposing new or amended licence conditions
 - court injunction/ interdict or court order
 - financial penalty
 - licence revocation.

No further action

- 4.17 Decision makers should first decide whether it is appropriate to take any action at all. Deciding that there should be no further action may be appropriate if the decision maker considers that there are no matters of concern, or where further formal action would not be a proportionate response to the established facts as there is no ongoing risk to the statutory objectives. In the latter case it may be appropriate to give the operator some advice as to their future conduct.

Notification of licence breach without the imposition of a financial penalty

- 4.18** This is the first sanction that should be considered if it is deemed that no further action is inappropriate. The notification approach allows us to formally record the licence breach without going on to take further action. This outcome may be appropriate where:
- (a) there is no risk to the statutory objectives but a licensing requirement is breached
 - (b) the breach is not considered serious in light of the factors set out at Stage One
 - (c) there is no loss or limited loss on returns to good causes (likely to be less than £1000).

- 4.19** If the decision maker is of the view that the above options at paragraph 4.17 and 4.18 are inappropriate they may wish to consider any of the following sanctions as set out in paragraphs 4.20 to 4.31 below. It is important to note that the following sanctions are not ranked in order of seriousness (nor does the decision maker need to address each one when reaching their decision as to sanction) but they represent the possible options available depending on the exact circumstances of the case.

Undertakings

- 4.20** Undertakings are a set of actions which the operator commits to implement. These will include an explanation of the events which gave rise to the undertaking, the actions to be taken and the timeline for achieving these. We may also consider these alongside sanctions. Although the intention is for these to be proposed by the operator there is no reason precluding the initiative being taken by us.
- 4.21** The operator cannot be required to enter into an undertaking and there is no requirement for us to accept any offer made.
- 4.22** We will only accept an undertaking where it is an appropriate enforcement response and if implemented will achieve an effective outcome. Previous use should not be taken as a basis for our future acceptance of an undertaking. The success or otherwise of earlier agreements will be a key factor in determining suitability.
- 4.23** Our usual approach will be to publish the details of any undertakings, however we recognise that there might be good reasons for departing from that approach in particular cases.
- 4.24** An undertaking may be considered appropriate where either:
- (a) one of the statutory objectives is jeopardised, along with one or more licensing requirement
 - (b) one of the statutory objectives is jeopardised and there is public concern, however, no specific breach of any licence condition
 - (c) the overall statutory objectives are not jeopardised but a licensing requirement is breached

And...

- (d) the breach of licence and/or effect on statutory objectives can be rectified by way of undertaking
- (e) there is no loss or limited loss on returns to good causes (likely to be less than £1000).

Requirement for an independent review

- 4.25** A requirement for an independent review may be considered appropriate in any of the following circumstances:
- (a) if achieving one of the overall statutory duties is jeopardised, along with one or more licensing requirement
 - (b) if achieving the overall statutory duty is not jeopardised but a licensing requirement is breached

And...

- (c) if we believe that an independent review would better help us to understand where problems have arisen with the operator for the purposes of improving regulatory oversight.

Imposing new or amended licence conditions

- 4.26** Amending conditions of a licence or imposing additional conditions is a flexible means of dealing with a concern. A finding of breach is not required to impose a new or amended licence condition. The licence continues with the additional or amended conditions that have been considered necessary to minimise the risk to the statutory objectives in the future.

- 4.27** We will seek to ensure that players will not be seriously disadvantaged or affected by any new or amended conditions, either directly or indirectly, and that the conditions will protect players and the general public during the period they are in force.

- 4.28** The imposition of new or amended licence condition(s) may be considered appropriate in the following circumstances:

- (a) if one of the statutory objectives is jeopardised, along with one or more licensing requirement
- (b) if one of the statutory objectives is jeopardised and there is public concern, however, no specific breach of any licence condition

And...

- (c) the licensee has demonstrated understanding and insight of the issues or concerns which gave rise to the review
- (d) the risk of repetition is considered to be low
- (e) the matter is capable of correction
- (f) appropriate, realistic and practicable conditions can be formulated
- (g) there is no significant risk of repetition if the additional licence conditions are complied with.

- 4.29** In seeking to impose new or amended conditions to the licence the decision maker will need to ensure that, in the absence of the operator's consent, the operator has been given a reasonable opportunity to make written representations about the variation.⁵ The decision maker shall serve a notice on the operator informing them of the variation, and state the variation shall take effect at the end of such period as may be specified in the notice⁶. Any written representations made by the operator will be taken in to consideration when making the final decision as to whether or not to make the variation.

⁵ There are two exceptions where we are not allowed to vary existing conditions in the licence and these are set out at section 8(3) of the Act. These are (a) where the variation would result in a condition requiring the licensee to transfer any property or rights, or (b) in the case of a licence granted under section 5, in relation to a condition that the licence provides may only be varied with the consent of the licensee.

⁶ Under Section 8(5) of the Act the period specified in the notice shall be a period of at least twenty-one days beginning with the date of the notice.

Court injunction/ interdict or court order

- 4.30** This remedy may be appropriate where we seek to compel the operator to do or refrain from specific acts. If the operator failed to comply with an injunction they can face criminal or civil penalties. It is not envisaged that these will be used frequently in the context of enforcement surrounding the National Lottery.
- 4.31** Under section 9 of the Act the court may grant an injunction restraining the contravention (or, in Scotland, an interdict prohibiting the contravention) or make an order requiring the licensee (and any other person who appears to the court to have been party to the contravention) to take such steps as the court may direct to remedy it where the court is satisfied:
- (a) that there is a reasonable likelihood that a person will contravene a condition in a licence granted under section 5 or 6
 - (b) that a person has contravened such a condition and there is a reasonable likelihood that the contravention will continue or be repeated
 - (c) that a person has contravened such a condition and there are steps that could be taken for remedying the contravention.
- 4.32** Only if the decision maker considers that the sanctions set out above are inappropriate based on their assessment at Stages One and Two will they go on to consider a financial penalty.

Financial penalty

- 4.33** If the decision maker is satisfied that the operator has contravened a condition in a licence under section 5 or 6, he may impose a financial penalty. The aims of a financial penalty are twofold, namely to deter persons from contravening conditions in licences under section 5 or 6, and to eliminate any financial gain/ benefit from non-compliance with licence conditions (subject to the former Director General's directions referred to at paragraph 4.35 below).
- 4.34** In certain cases in which we are considering a financial penalty, or a payment in lieu of financial penalty, and in which timely disclosure and admissions have been made by a licensee, we will seek to give a discount to the penal aspect of a financial penalty.
- 4.35** We are required by law to act in accordance with the attached extract from the former Director General of the National Lottery's publication *Financial Penalties: Principles and Procedures* (contained at Appendix A) and sections 10A and 10B of the Act. There are a number of procedural steps which must be taken before we can impose a financial penalty, including the service of a notice on the operator setting out the details of the breach⁷ and giving the operator the opportunity to make written representations or to notify us of their intention to make oral representations.
- 4.36** A financial penalty may be considered appropriate in the following circumstances where:
- (a) one of the statutory objectives is jeopardised, along with one or more licensing requirement
- And (one or more of the following factors are present)...
- (b) there is a serious impact or potentially serious impact on the National Lottery's reputation (including for fairness, consumer protection, systems integrity or customer satisfaction)
 - (c) there is a significant impact on players involved or for potential players
 - (d) there is an significant impact on returns to good causes
 - (e) the licensee has derived a financial advantage from the breach
 - (f) the licence breach was as a result of deliberate action or negligence
 - (g) where the operator was aware or should have been aware of the breach

⁷ Section 10A(3) and (4) sets out what we are required to include in the notice

- (h) the operator has committed similar contraventions in the past
- (i) there was a systematic failure to comply with a licence condition
- (j) the operator did not report the issue to us
- (k) there is a lack of effective remedial action after the breach or failure becomes apparent to the licensee
- (l) a financial penalty is necessary to deter future contraventions or failures and to encourage compliance, on the part of both the licensee and other operators.

Licence revocation

- 4.37** Licence revocation is the most serious sanction and should only be considered where it is decided that all other sanctions are inappropriate. We shall revoke the licence where:
- (a) the operator no longer is, or never was, a fit and proper body to run the National Lottery
 - (b) in relation to the licence granted under section 6 if we are satisfied that the licensee no longer is, or never was, a fit and proper person to promote lotteries under the licence.
- 4.38** We may revoke a licence granted under section 5 or 6 if:
- (a) if it appears to us that any of the grounds for revocation set out in Part I of Schedule 3 applies⁸
 - (b) if the operator consents.
- 4.39** As a final check, the decision maker will conduct an overall assessment to ensure that the proposed regulatory action is compliant with the general principles in section 2.

5 Informal procedures and settlement

Informal resolution

- 5.1** There may be instances where a more informal procedure is required to address issues with the operator, as opposed to the formal investigation and enforcement approach set out above. This may be where, for example, the operator has admitted licence breaches therefore diminishing the need for an investigation or where there are issues with the operator linked to governance issues that may be better addressed otherwise than by way of the use of enforcement powers.
- 5.2** There may also be other situations where an informal process would assist and a decision will be taken on the facts of the specific case as to whether this approach is appropriate.

Regulatory settlement

- 5.3** In certain circumstances we may seek, where appropriate, to fulfil our statutory obligations and pursue the licensing objectives through means that stop short of formal enforcement action. One means of achieving this will be by way of regulatory settlement, which we may consider appropriate, particularly where the operator has been:

⁸ Schedule 3 states the following are discretionary grounds for revocation:

1. A condition in the licence has been contravened.

2 Any information given by the operator—

(a) in or in connection with the application for the licence,

(b) in pursuance of a condition in the licence, or

(c) in making representations under section 8(2) or Part II of this Schedule, was false in a material particular.

3(a) A proposal for a voluntary arrangement under Part I of the Insolvency Act 1986 or Part II of the Insolvency (Northern Ireland) Order 1989 has been made in relation to the licensee.

(b) A petition for an administration order to be made in respect of the licensee or for the winding up of the licensee has been presented to the court.

(c) A resolution for the voluntary winding up of the licensee has been passed.

(d) A receiver or manager of the whole or any part of the licensee's property has been appointed.

- (a) open and transparent in its dealings with us
- (b) able to make timely disclosures of material facts
- (c) able to demonstrate that they have insight into apparent failings
- (d) able to suggest actions that would prevent the need for us to take formal action
- (e) prepared, where appropriate, to agree to us making a public statement setting out the failings in order to deter future non-compliance and/ or share learning that may be beneficial to other stakeholders including the public
- (f) prepared to divest itself of profits or cost savings which accrued as a result of the failings
- (g) prepared to follow advice and implement procedures to ensure there is no repetition of the failings
- (h) prepared to contribute to our direct costs of investigating the matter in respect of which a regulatory settlement is sought
- (i) prepared to volunteer a payment in lieu of the financial penalty we might otherwise impose for breach of licence condition.

5.4 Regulatory settlements can allow us to avoid a protracted investigation or conclude an investigation more swiftly than would often be the case but will only be appropriate where they meet an appropriate regulatory outcome. A decision to settle early should not be seen as a soft option. We will set timetables for settlement discussions and where these are not adhered to we are likely to revert to formal regulatory action.

6 Appeals

6.1 Rights of appeal against sanctions are detailed in the legislation governing the National Lottery. The right of appeal in relation to a decision taken by us to revoke a licence or impose a financial penalty is to the High Court (or Court of Session in Scottish cases). In relation to a court injunction/interdict or court order made by the High Court (or the Court of Session in Scottish cases) the right of appeal lies to the Court of Appeal.

6.2 The only regulatory actions that are not subject to a statutory right of appeal are as follows:

- notification of a licence breach
- undertaking
- requirement for an independent review
- new or amended licence condition(s).

6.3 Undertakings are voluntary agreements and as such there is no need for appeal arrangements. However, any failures to implement an undertaking, where there is continued or recurring breach of a licence condition, will inform our decision whether to impose a financial penalty in respect of that breach. The appeal process in such instances are the same as for financial penalties where no case related undertaking has been given.

7 Publication of decisions and the reasons for decisions

7.1 Openness and transparency are central to our work. Publication of details of our work in enforcement plays an important role in improving compliance in and beyond the licensed community, and in increasing confidence in us as a regulator.

General approach to publication in cases where the investigation is ongoing

7.2 In making decisions on publication in enforcement cases, we will at all times bear in mind the public interest, and we will act compatibly with the right to privacy enshrined in Article 8 of the European Convention on Human Rights.

Generally, we will limit the release of information about on-going regulatory investigations, only releasing details if we have determined that it is in the public interest to do so. This protects the integrity of investigations and protects the operator from being unfairly associated with unsubstantiated allegations.

- 7.3** This means that generally we will only announce publicly that we are investigating a matter in exceptional circumstances; we will only make such an announcement if we consider it is desirable to:
- maintain public confidence in the National Lottery or the regulation thereof
 - protect players
 - prevent or deter widespread malpractice
 - help the investigation itself, for example by bringing forward witnesses
 - maintain the smooth operation of the National Lottery.
- 7.4** In deciding whether to make an announcement, we will consider the potential prejudice that may be caused to the operator who is or is likely to be, subject to investigation and weigh this against the benefits of making an announcement.
- 7.5** The exceptional circumstances referred to above may arise where the matters under investigation have become the subject of public concern, speculation or rumour. In this case it may be desirable for us to make public the fact of investigation in order to allay concern, or contain speculation or rumour.
- 7.6** We will not normally publish details of the information found or conclusions reached during the course of our investigations. In many cases, restrictions on the disclosure of information obtained by us in the course of exercising our functions are likely to prevent publication. These restrictions may include disclosing someone's confidential or legally privileged information or prejudicing other investigations or legal proceedings.
- 7.7** In exceptional circumstances, and where we are not prevented from doing so, we may publish details. Circumstances in which we may do so include those where the fact that we are investigating has been made public, by ourselves or otherwise, and we subsequently conclude that the concerns that prompted the investigation were unwarranted. This is particularly so if the operator wishes for us to clarify the matter.

General approach to publication in enforcement cases once a formal regulatory decision has been taken

- 7.8** However, once a formal regulatory decision has been taken, such as the imposition of a financial penalty, or revocation of a licence, we will ordinarily publish all such decisions in full, even if a decision is subject to appeal. Such publication will take place 14 days after a decision has been taken. Even if a regulatory settlement has been reached, such decisions will ordinarily be published.

Removal of notices

- 7.9** As stated above, publicity is important to ensure the transparency of our decision-making; it informs the public and helps to maximise the deterrent effect of enforcement action. Notwithstanding that, we will upon request review any compliance or enforcement-related notices that are published on our website. We will determine whether continued publication is appropriate, or whether such notices should be removed or amended.
- 7.10** In carrying out the review we will consider all relevant factors. In particular, we will take into account:
- the seriousness of the misconduct
 - the nature of the action taken by us and the level of any sanction imposed
 - whether we have continuing concerns in respect of the operator and any risk they might pose to the National Lottery objectives

- whether the publication sets out our expectations regarding behaviour in a particular area
- whether that message still has educative value and the public interest in the case (both at the time and subsequently)
- whether continued publication is necessary for deterrence or consumer protection reasons
- how much time has passed since publication
- any representations made by the operator on the continuing impact on them of the publication.

8 Other information

- 8.1 This document is not intended to be a guide to the law or licence conditions. Copies and links to the legislation and licences can be found on our website at: www.gamblingcommission.gov.uk.

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making gambling fairer and safer

www.gamblingcommission.gov.uk