

# GAMBLING COMMISSION

## **Consultation on amendments to the Gambling Commission's:**

*Statement of principles for licensing and  
regulation*

*Licensing, compliance and enforcement policy  
statement*

**July 2014**

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# 1 Introduction

1.1 The Gambling Commission (the Commission) is publishing this consultation paper to seek views on our proposals for revision of two documents concerning our principles and regulatory processes. The documents we are consulting on are:

- Statement of principles for licensing and regulation – Appendix A to this consultation, published in a separate document
- Licensing, compliance and enforcement policy statement - Appendix B to this consultation, again published separately.

1.2 These are available for download on the Commissions website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

1.3 The Commission is required to publish the Statement of principles for licensing and regulation under the Gambling Act 2005 (the Act), as has now been amended by the Gambling (Licensing and Advertising) Act 2014. The current Statement of principles for licensing and regulation was published in September 2009. The Licensing, compliance and enforcement policy statement sets out in broad terms how the Commission applies those principles in practice in respect of risk, licensing, compliance, enforcement and publicity; its current version was also published in September 2009.

1.4 The Commission is required by the Act to consult on the Statement of principles for licensing and regulation.

## Regulators' Code

1.5 The Commission has always aimed to ensure that its regulatory policies reflect the principles of good regulation. The previous Statement of principles for licensing and regulation, and the Licensing, compliance and enforcement policy statement therefore took account of the *Regulators' Compliance Code (December 2007)* as well as various other guidance.

1.6 The Government commenced a consultation on changes to the Regulators' Compliance Code in March 2013. The new Regulators' Code was published on 25 July 2013 and came into effect in April 2014. It states that regulators should:

- carry out their activities in a way that supports those they regulate to comply and grow
- provide simple and straightforward ways to engage with those they regulate and hear their views
- base their regulatory activities on risk
- share information about compliance and risk
- ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- ensure that their approach to their regulatory activities is transparent.

1.7 The draft Statement of principles and draft Licensing, compliance and enforcement policy statement have therefore been reviewed with the principles of the new Code in mind and the intention of all the documents is to clarify, and where feasible, simplify our approach.

## Other changes

1.8 The documents have also been refined where appropriate to take into account :

- the Commission's experience since the documents were last published
- internal structural changes to improve the Commission's operation
- an emphasis on early resolution of issues
- feedback from the industry.

- 1.9** These refinements do not amount to a significant change in approach from the Commission. However, the changes ensure the documents better reflect the Commission's existing flexible approach to regulation. Similarly, the changes reflect where the Commission has found better ways to deal with certain issues as it has encountered them.

#### **Further operational documents**

- 1.10** Where appropriate, operational documents will set out in further detail how the Commission carries out these activities (such as the Commission's *Statement of principles for determining financial penalties*), but the Commission's actions within each area will be guided by the *Statement of principles for licensing and regulation* and the *Licensing, compliance and enforcement policy statement*.

#### **Structure of this consultation document**

- 1.11** Sections two and three set out the key issues relating to the proposed amendments to the documents and pose a short series of consultation questions.
- 1.12** Further information on how to respond is set out in Section 4 of this consultation document.

## 2 Issues relating to the Statement of principles for licensing and regulation

- 2.1 Section 23 of the Act requires the Commission to prepare, publish and keep under review a statement that sets out the principles which will govern the exercise of its functions. In particular, the Statement of principles must explain how the principles adopted by the Commission will assist the pursuit of the licensing objectives.
- 2.2 The Statement of principles for licensing and regulation therefore underpins the Commission's regulatory work. However, as the Commission has familiarised itself with its role under the Act, it has, most notably, developed procedures that improve its approach to securing full and prompt compliance with legislation, the Licence Conditions and Codes of Practice (LCCP), and minimising risks to the licensing objectives.
- 2.3 The Statement of principles has therefore been revised and updated principally to reflect the Commission's approach in three key areas: enhanced compliance, voluntary settlement and publicity.
- 2.4 The revised draft statement has been restructured and reordered. It is now divided into five chapters.

### Chapter 1: Introduction

- 2.4 Chapter 1 explains the purpose of the statement, the licensing objectives and the Commission's duty to pursue them, the statutory requirements and better regulation principles, and the Commission's jurisdiction and statutory functions under the Act.
- 2.5 The most significant addition to this chapter is an explanation that information about the exercise of the Commission's functions in relation to the National Lottery can be found at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk), rather than in the Statement of principles.

### Chapter 2: General principles

- 2.6 Chapter 2 sets out the general principles governing the Commission's work, including the requirement to regulate gambling in the public interest, the adoption of a risk-based approach and the focus on preventative activity.
- 2.7 The amendments to this chapter include:
- updating references to external bodies to reflect changes since the document was last published
  - explaining the Commission's approach to the consideration of economic growth in so far as it is consistent with the licensing objectives
  - an addition to the section on preventative measures to reflect that the Commission may issue public statements about topics which may offer lessons to operators or the public.
  - the addition of an explicit statement that the Commission will take coordinated regulatory action with government bodies and/or other regulators where it is appropriate to do so
  - similarly, the addition of an explicit statement that the Commission will share information with other bodies, where appropriate. This may include for example sharing data with relevant public authorities, overseas regulators for the assessment individuals' suitability to be licensed, the prevention and detection of crime or for the purpose of assisting another body to exercise its functions
  - the addition of an explanation that the outcome of debt proceedings against an operator may be taken into account by the Commission if it gives rise to questions about a licensee's suitability to hold a licence.

### Chapter 3: Principles for licensing

- 2.8 Chapter 3 sets out the principles that the Commission will apply when carrying out its licensing functions. The chapter covers the duties of applicants to be open and

cooperative, the relevance of criminal convictions, the ways in which applicants will be notified of decisions, and the principles governing the publication of decisions.

**2.9** The most significant amendments to this chapter are:

- the addition of new paragraphs clarifying what the Commission expects from applicants. Whilst the Commission will attempt to support applicants through the process and will aim to determine applications in good time, the responsibility to provide information remains with the applicant and an application may be refused on the basis of insufficient information
- an explicit statement that the Commission expects applicants to work with the Commission in an open and cooperative way and to disclose anything which the Commission would reasonably expect to know
- an explanation that the Commission normally grants a licence to those who intend to provide facilities for gambling under that licence, and that normally those facilities for gambling will include gambling by British or EEA customers
- a new paragraph which sets out that, where an operator is required to have Personal Management Licence holders in specified management offices, the Commission would normally expect that the person who occupies the Head of Compliance role will not also occupy one of the other specified management offices
- paragraphs which consolidate the information in the document about the Commission's approach to publishing licensing decisions, including both the register of licensees and information about refused or withdrawn applications, if there is a public interest to do so.

#### **Chapter 4: Principles for regulation**

**2.10** Chapter 4 sets out the principles that the Commission will apply in exercising its regulatory functions under the Act. The chapter sets out the expectations of the Commission regarding holders of operating licences, personal management licences and personal function licences. It also sets out the principles underpinning the voluntary settlement procedure.

**2.11** The amendments to chapter 4 include:

- new paragraphs setting out the expectations for both senior management/ personal management licensees and personal functional licensees
- an expanded explanation of the Commission's approach to publicising information about regulatory decisions or actions.

#### **Chapter 5: Promoting the licensing objectives**

**2.12** This chapter explains how the principles will help the Commission to promote the three licensing objectives under the Act. Only minor amendments are proposed for this chapter.

#### **Conclusion**

**2.13** The principles within the document have been taken in the main from the Commission's current regulatory policy documents. The revised statement does not include as a principle anything which the Commission is legally obliged to do.

**2.14** We would welcome comments from respondents on any of the proposed amendments summarised here or as set out in Appendix A.

#### **Consultation question**

**Q1.** Do you have any comments on the proposed changes to the Statement of principles for licensing and regulation?

### **3 Issues relating to the Licensing, compliance and enforcement policy statement**

- 3.1** The original Licensing, compliance and enforcement policy statement brought together issues previously covered in a number of separate documents and set them out in a more concise manner.
- 3.2** Like the previous version, the revised document contains an introduction (chapter 1) followed by chapters on risk (chapter 2), licensing (chapter 3), compliance (chapter 4) and criminal investigations (chapter 6). These chapters remain largely unchanged. However, there are numerous proposed amendments to chapter 5 on regulatory enforcement, to reflect the Commission's emphasis on early resolution of issues through enhanced compliance and voluntary settlement. Furthermore, an entirely new chapter on publicity has been added (chapter 7).

#### **Chapter 5 – enhanced compliance and voluntary settlements**

- 3.3** The changes to chapter 5 of the policy statement reflect the Commission's desire to resolve matters quickly and effectively where possible, always in a manner which fulfils the Commission's statutory obligations and is consistent with the licensing objectives.
- 3.4** New paragraphs have been added to explain our enhanced compliance approach. Where concerns have been raised about an operator, and a decision has not yet been taken to carry out a licence review, the Commission is open to the possibility of resolving matters by means that fall short of formal sanction. In those cases where enforcement action is not taken and/or a formal review is not commenced, the Commission will expect the operator to act promptly to take the necessary remedial action.
- 3.5** Similarly, information has been added to reflect the Commission's use of voluntary settlements as a regulatory decision, the terms of which are accepted by the licensee concerned. Voluntary settlements in the Commission context are not the same as 'out of court' settlements in the commercial context. When agreeing the terms of a settlement, the Commission will carefully consider its statutory duties and other relevant matters such as the importance of sending clear, consistent messages through enforcement action, and will only settle in appropriate cases where the agreed terms of the decision result in acceptable regulatory outcomes. It may be particularly important in this respect to provide redress to consumers who may have been disadvantaged by an operator's misconduct, or to relieve operators of the profits or gross gambling yield resulting from their misdeeds. In many circumstances, voluntary settlements will result in some degree of publicity (an explanation of which is set out in the new Chapter 7), unlike commercial out of court settlements, which are often confidential.

#### **Chapter 7 – Publicity**

- 3.6** The new chapter 7 which has been added to the licensing, compliance and enforcement statement reflects publicity's central role in improving compliance in and beyond the licensed community, and in increasing confidence in the Commission as a regulator. It also reflects the Commission's aim to act in an open and transparent manner.
- 3.7** Openness and transparency are central to the Commission's work in upholding the licensing objectives. Publication of details of the Commission's work in licensing, compliance and enforcement plays an important role in improving compliance in and beyond the licensed community, and in increasing confidence in the Commission as a regulator.

### **Consultation questions**

- Q2.** Do you have any comments on the minor amendments and points of clarification for the chapters on risk, licensing, compliance and criminal investigations (chapters 2, 3, 4 and 6 respectively)?
- Q3.** Do you have any comments on the changes to chapter 5 on regulatory enforcement, and in particular as regards the sections on enhanced compliance and voluntary settlement?
- Q4.** Do you have any comments on the new chapter on publicity (chapter 7)?



## 4 Responding to this consultation

- 4.1 The Commission is inviting comments on these proposals and would prefer respondents to complete the responses template provided and send it by email to: [consultation@gamblingcommission.gov.uk](mailto:consultation@gamblingcommission.gov.uk)
- 4.2 Further information and assistance is available from the Commission's consultation co-ordinator at the same email address. If you are not able to use the template provided, please indicate clearly the questions or issues to which your comments refer.
- 4.3 Alternatively, responses can be sent by post to:  
Consultation  
Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP
- 4.4 The closing date for receipt of responses by the Commission is **30 September 2014**.
- 4.5 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who or what that organisation represents. If responding as an individual, please mention your own interest.
- 4.6 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 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, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 4.7 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 FOIA 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.
- 4.8 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, local 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 do so.
- 4.9 The Commission will consider all responses carefully when finalising its proposals, but will only alter its position if it thinks there is good reason to do so. Following the end of the consultation the Commission will prepare a summary of responses, which it will publish alongside the finalised documents.

## Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at:  
[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Copies of this document are available in alternative formats on request.

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