

National Lottery 4th Licence Competition Committee terms of reference

Introduction

1. In accordance with Paragraph 8 of Schedule 4 to the Gambling Act 2005, the Commission has established a National Lottery 4th Licence Competition Committee.
2. These terms of reference set out the purpose, membership and delegated authority of the National Lottery 4th Licence Competition Committee (the "**Committee**") and employees under the National Lottery, etc Act 1993 (as amended) ("**the 1993 Act**") and the Gambling Act 2005.

Purpose

3. The purpose of the Committee is to act as the Programme Board for the National Lottery 4th Licence Competition (the "**Competition**").
4. As such, the Committee supports the Board of Commissioners (the "**Board**") and the Chief Executive by overseeing and assuring the progress of the Competition, recommending decisions to the Board, and by exercising its delegated powers to make decisions in relation to the Competition.

Membership

5. Membership of the Committee shall comprise a minimum of two Commissioners and the Senior Responsible Owner (the "**SRO**"), and may include other nominated employees of the Commission.
6. The membership shall also comprise an Independent Member of the Committee, if one has been appointed.
7. The Board will appoint the Chair of the Committee and the other members of the Committee.
8. The Chairman of the Board and Chief Executive will not be members of the Committee, but may attend any meeting of the Committee.

Agenda

9. The Committee Chair and the SRO should agree the agenda for the meeting in sufficient time for the agenda and papers to be available to members of the Committee and attendees at least 4 working days before the meeting.

Delegated powers

10. In accordance with Paragraph 8 of Schedule 4 of the Gambling Act 2005 (as amended) the Board hereby delegates to the Committee the decisions and functions set out below:

Stage	Delegation
Design	<ol style="list-style-type: none"> a. Approval of strategies that set the direction of the programme, specifically: <ol style="list-style-type: none"> i. The Commercial Strategy (how the competition is run); ii. The Regulatory Strategy (how performance of the Licensee is monitored and the approach to enforcement);

	<ul style="list-style-type: none"> iii. The Stakeholder Management and Communications Strategy (how stakeholders are engaged effectively); and iv. The Risk Management Strategy (how risks and opportunities are identified, managed and mitigated) v. All Strategies and guidance documents referenced in ITA.
	b. Approval of the down-selection and evaluation process and the composition of the evaluation panel
	c. Approval of the Communications Plan and handling measures to mitigate Commission reputational risk
	d. Endorsement of SRO assurance that the principal programme products have been legally reviewed, and are of good quality, specifically: <ul style="list-style-type: none"> i. Selection Questionnaire (SQ) document and process for down-selection ii. Invitation to Apply (ITA) document, including tender requirements and evaluation criteria iii. Integrated Policy Position (IPP), including all underlying evidence and analysis; iv. 4th National Lottery Section 5 Licence, including all referenced schedules
	e. Approval to publish draft ITA and draft Licence, subject to SRO assurance that products are ready and fit-for-purpose
	f. Endorsement of SRO assurance that the programme Outline Business Case is robust and underlying plans are fully costed and risk adjusted.
Competition	g. Approving the recommendation of the Evaluation Panel after SQ stage, as endorsed by the SRO
	h. endorsing the ranking of bidders, arising from the Evaluation Panel and validated by the SRO, for presentation to Board for final approval.
Transition	i. to recommend to the Board a governance process to handover the Competition into business as usual

11. For clarity, matters reserved to the Board in relation to the Competition, and those delegated to the role of the SRO are listed in Annexe A.

12. Any other decisions relating to the Competition which are not otherwise specifically reserved or delegated under these terms of reference are hereby delegated to the Chief Executive or SRO.

13. The Board authorises the Committee to seek:

- a) Independent professional advice it requires in meeting its responsibilities if it considers it necessary.
- b) Information from officials.
- c) Information from the National Lottery operator.
- d) Information from potential bidders

14. It will be normal practice to channel such requests through the SRO, Chief Executive or another member of the Executive Team.
15. Where the Committee is unable to make a decision regarding any functions that have been delegated to it, the Committee shall be required to refer such matter to the Board for deliberation and direction.

Functions and duties

16. As the Programme Board, the Committee's function and duty is to provide oversight of the process of the Competition, which includes:
 - a. programme delivery milestone baselining, monitoring and change control (in line with the 4NLC Schedule Change Control Policy & Process)
 - b. risk oversight and decision making on appropriateness of risks and their associated controls
 - c. financial oversight
 - d. stakeholder and communications strategy
 - e. commercial strategy and delivery
 - f. policy and design
17. The Board authorises the Committee to consider the issues relevant to the functions set out in these terms of reference.
18. These terms of reference shall be reviewed regularly, and at least once per annum, to ensure that they remain fit for purpose, and where from time to time the Committee deems that amendments are required, they shall request that the Board makes such amendments.

Meetings

19. The Committee shall meet at least six times per year. Additional meetings may be convened if considered necessary by the Chair of the Board, Committee Chair, Chief Executive or SRO.
20. Meetings of the Committee may be conducted in person or by other means including written resolution.

Quorum and Voting

21. The quorum shall be two Commissioners, provided one is the Committee Chair, or the Committee Chair and the SRO
22. If the Committee Chair is not present, the quorum shall be three members of the Committee, of which two must be Commissioners and one an employee of the Commission.
23. If the Committee Chair is not present at a meeting, the Committee members will appoint a Chair for that meeting only who must be a Committee member who is a Commissioner.
24. Remote attendance by telephone or Skype will count towards the quorum of the meeting.
25. Voting for all decisions made will require a simple majority. In instances where there is a tie, then the Committee Chair (or the SRO in the absence of the Committee Chair) shall have the deciding vote.

26. If a question arises at a Committee meeting as to the right of a member to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may be referred to the Committee Chair for decision during the meeting. Their ruling in relation to the member is final and conclusive. If such question arises in respect of the Committee Chair, such decision will be made by the Board.

Attendance at Committee meetings

27. Meetings of the Committee will normally be attended by the Programme Director responsible for the Competition and the Secretary to the Committee.
28. The Chief Executive or SRO may designate such other employees of the Gambling Commission as they consider appropriate to attend meetings of the Committee to assist or advise the Committee. Those employees may not take part in the decision-making process.
29. Where staff whose work relates to the 3rd National Lottery licence are designated to attend the Committee, this should be treated in accordance with the National Lottery 4th Licence Competition governance and engagement policies.
30. Advisers who have been appointed by the Commission in respect of specialist issues may also attend so long as the Chair of the Board, Committee Chair, Chief Executive or SRO considers that appropriate. Such advisers may not take part in the decision-making process.
31. The Committee may ask any or all of those who attend, but who are not members, to withdraw at any point during the meeting.

Reporting

32. The Committee Chair will report on matters considered by the Committee at the next Board meeting following each meeting of the Committee.
33. The Committee will make a written report frequently (and at least annually) on its activities to the Board.
34. The Committee will be required to report regularly, and at least once per annum, to the Audit and Risk Committee on all such matters that have been delegated to the Audit and Risk Committee as set out in its terms of reference (Appendix 3 of the Corporate Governance Framework).
35. The Commission's activities in relation to the Competition will be reported on in the Commission's Annual Report.
36. Records of the Committee, including papers and minutes, are Official Records of the Gambling Commission, and as such will be retained until at least the end of the fourth lottery licence.

Probity, security and conflicts of interest

37. All members of the Committee who are Commissioners must abide by the provisions of the Code of Conduct for Commissioners (Appendix 9 of the Corporate Governance Framework, available from the Commission website).
38. All members of the Committee who are nominated employees of the Commission including the SRO shall be required to abide by the Code of Conduct for Commissioners as if it applied to them.

39. In relation to the activities of the Committee, prohibitions and other requirements about shareholding and trading also apply to shares in companies which are or might become bidders for the licence or suppliers of goods or services that may be critical to bidders, for example data or payment services providers.

Legal Privilege

40. To the extent that any legal advice is shared in the course of a Committee meeting (including within any papers circulated for the purposes of meetings) confidentiality and legal privilege is maintained over that advice and all recipients and attendees are required to keep the privileged advice confidential.

Annexe A: Delegation of functions and powers

Decisions in relation to the 4th National Lottery Competition (“4NLC”) Programme which must be taken by the Board of Commissioners

1. During the DESIGN STAGE

Programme	<ul style="list-style-type: none"> a. Approval of programme objectives, in consultation with DCMS Sponsor; b. Approval of changes to programme scope, in consultation with DCMS Sponsor; c. Approval of changes to programme milestones where required by the Board-approved change control policy; d. Endorsement of changes to programme cost, subject to Accounting Officer assurance, and DCMS approval; e. Endorsement of the Committee’s assurance that commercial strategy, plans and processes are robust, and all measures have been taken to conduct a fair, open and transparent competition; f. Approval to launch competition, subject to the Committee’s assurance of programme readiness and SRO insight on market’s appetite to bid;
Policy	<ul style="list-style-type: none"> g. Endorsement of the Committee’s assurance that Integrated Policy Position (IPP) is in accordance with Commission’s statutory duties; h. Endorsement of the Committee’s assurance that regulatory strategy satisfies policy intent to be more outcome focussed and is enforceable;
Licensing	<ul style="list-style-type: none"> i. Approval of policy decision on handling of Section 6 (promoter) Licence j. Endorsement of the Committee’s assurance that the Section 5 Licence offered to market is in accordance with the Commission’s statutory duties and subject to this, and aligned to LCCP.

2. During the COMPETITION STAGE

Programme	<ul style="list-style-type: none"> a. Approval of changes to programme scope, time and cost where required by the Board-approved change control policy; b. Endorsement of the Committee’s/SRO assurance that down selection (at SQ stage) was conducted in accordance with agreed process; c. Approval of Evaluation Panel recommendation on preferred bidder; d. Approval to invoke Third Licence conditions to commence Handover period.
Policy	<ul style="list-style-type: none"> e. Endorsement of the Committee’s/Evaluation Panel’s assurance that preferred bidder’s proposal satisfies the Commission’s statutory duties;
Licensing	<ul style="list-style-type: none"> f. Approval of the final terms of the 4th National Lottery Section 5 Licence, after negotiations with preferred bidder.

3. During the TRANSITION/HANDOVER STAGE

Programme	<ul style="list-style-type: none"> a. Approval of changes to programme scope, time and cost where required by the Board-approved change control policy; b. Endorsement of the Committee’s/SRO assurance that preferred bidder’s Transition Plan is robust and deliverable; c. Approval to invoke extension of Third Licence, if deemed necessary
Licensing	<ul style="list-style-type: none"> d. Grant of Section 5 Licence issued under the 1993 Act.

Decisions in relation to the 4NLC Programme which are delegated to the Committee

4. During the DESIGN STAGE

The decisions delegated to the Committee, in their corporate oversight capacity (2nd line of assurance), are as follows:

- a. Approval of strategies that set the direction of the programme, specifically:
 - i. The Commercial Strategy (how the competition is run);
 - ii. The Regulatory Strategy (how performance of the Licensee is monitored and the approach to enforcement);
 - iii. The Stakeholder Management and Communications Strategy (how stakeholders are engaged effectively); and
 - iv. The Risk Management Strategy (how risks and opportunities are identified, managed and mitigated)
 - v. All Strategies and guidance documents referenced in ITA.
- b. Approval of the down-selection and evaluation process and the composition of the evaluation panel;
- c. Approval of the Communications Plan and handling measures to mitigate Commission reputational risk;
- d. Endorsement of SRO assurance that the principal programme products have been legally reviewed, and are of good quality, specifically:
 - i. Selection Questionnaire (SQ) document and process for down-selection
 - ii. Invitation to Apply (ITA) document, including tender requirements and evaluation criteria
 - iii. Integrated Policy Position (IPP), including all underlying evidence and analysis;
 - iv. 4th National Lottery Section 5 Licence, including all referenced schedules;
- e. Approval to publish draft ITA and draft Licence, subject to SRO assurance that products are ready and fit-for-purpose;
- f. Endorsement of SRO assurance that the programme Outline Business Case is robust and underlying plans are fully costed and risk adjusted.

5. During the COMPETITION STAGE

- a. The NLCC is responsible for approving the recommendation of the Evaluation Panel after SQ stage, as endorsed by the SRO.
- b. The NLCC is responsible for endorsing the ranking of bidders, arising from the Evaluation panel and validated by the SRO, for presentation to Board for final approval.

6. During the TRANSITION/HANDOVER STAGE

- a. to recommend to the Board a governance process to handover the Competition into business as usual

Decisions in relation to the 4NLC Programme which are the responsibility of the Senior Responsible Owner (SRO)

7. During the DESIGN STAGE

The decisions delegated to the SRO, as the person accountable to Parliament for delivery of the programme (as defined in Osmotherly letter), with the support of the programme team are as follows:

- a. Overall design of the programme and the temporary organisation needed to deliver it;
- b. The content of the Outline Business Case, and assurance of ongoing viability of the programme, in consultation with Commission Accounting Officer;
- c. Management of strategic risks in the operating environment;
- d. The design and operation of appropriate programme governance;
- e. Implementation of change control policy and process within Board-approved tolerance limits;
- f. The design and operation of appropriate functional and product assurance, including agreeing the level and frequency of assurance reviews with Infrastructure and Projects Authority (IPA) – Annex 1 details the assurance framework that 4NLC operates within;
- g. Delivery of the programme plan to successfully achieve objectives and critical success factors.
- h. Assurance of Financial Models used by the programme, for example: Should Cost Model; Evaluation Model.
- i. As Information Asset Owner, the content and protection of all electronic portals and Data Rooms used by the programme;
- j. Endorsement of any proposed procurements which require Board approval pursuant to the Commission's Financial Regulations and Delegations (appendix 7 of the Corporate Governance Framework) prior to submission to the Board.

8. During the COMPETITION STAGE

The general responsibilities of the SRO are unchanged. Specific responsibilities relevant to competition are as follows:

- a. Receive Evaluation Panel recommendations on SQ assessment, and present to the Committee for approval;
- b. Receive report from Evaluation Panel for each compliant bid at ITA evaluation stage, and present recommended ranking to the Committee for endorsement;
- c. Where, during the SQ assessment or conducting vetting tests at Evaluation stage, any recommendation is made that an individual is judged not to meet fit-and-proper or other criteria, the SRO will validate the recommendation with two Commissioners; and
- d. The content of the Full Business Case, and assurance of ongoing viability of the programme, in consultation with Commission Accounting Officer.

9. During the TRANSITION/HANDOVER STAGE

- a. Grant of Section 6 Licences issued under the 1993 Act in respect of the 4th National Lottery Licence.
- b. The general responsibilities of the SRO are unchanged, until such time as the programme is closed.

