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## Overview

In June 2018 the Government published a consultation on society lottery reform, seeking views on potential changes to sales and prize limits for large and small society lotteries.

In July 2019, the Government announced that it intends to amend section 99 (3) of the Gambling Act 2005 to raise the per draw limit on lottery proceeds (ticket sales) from £4 million to £5 million, with the result that the maximum individual prize will raise from £400,000 to £500,000.

In addition, the annual aggregate proceeds limit will rise from £10 million to £50 million. The Gambling Commission is required by section 99 of the Act to attach conditions to lottery operating licences for the purposes of achieving the requirements of section 99.

So the current limits, which are reflected in licence conditions attached to all society lottery operating licences, will also need to be amended to reflect the changes.

The reasons for changes to, and levels at which the limits will be set are explained in the Department for Digital, Culture Media & Sport's responses document 'Government response to the consultation on society lottery reform', which can be found [here](#).

We are also looking at the current regulatory requirements to ensure that issues related to the fair and open licensing objective, regarding transparency to consumers, are addressed.

We are seeking views on strengthening some aspects of the licence conditions and codes of practice (LCCP) and producing guidance related to information available to consumers.

This consultation will be of interest to consumers of lottery products, licensees and prospective licensees, charities and organisations concerned with gambling and social responsibility; and academics and organisations with an interest in lotteries.

## Why we are consulting

The Commission is consulting on measures to achieve the following outcomes:

- To amend the limits within the LCCP to reflect changes the Government plans to implement through secondary legislation.
- Enable lottery consumers to make better informed decisions about whether to gamble

### Amending the limits

Section 99 of the Gambling Act 2005 (the Act) requires the Commission to attach various conditions to lottery operating licences issued to non-commercial societies or local authorities.

These conditions include the monetary or percentage limits on proceeds (ticket sales) and prizes in lotteries run by such societies or by local authorities. Section 99(11) of the Act permits the Secretary of State to vary by Order a monetary amount or percentage set out in section 99.

Section 99(10) of the Act permits the Commission to set similar, or alternatively more onerous, conditions on a lottery operating licence.

This means that the Order (if implemented) will make changes to the limits in legislation. However, until those changes are reflected in the licence conditions attached to society lottery operating licences, operators will not be able to benefit from them. To make changes to the LCCP, the Commission is required to consult those affected.

### Information for consumers

Over the course of the broader review of society lottery regulations concerns about the transparency of society lotteries were raised.

In particular concerns were expressed about the lack of transparency in relation to odds of winning a prize, how much of the money raised through ticket sales goes to good causes and which good causes are supported.

The lotteries sector is, first and foremost, a form of fundraising for good causes to enhance and enrich aspects of British public life. We want to build on this success, while ensuring that lotteries are run in a way which is fair and safe for consumers.

Whilst we have previously taken measures to increase the information made available to consumers, we consider more could be done.

Specifically, we want consumers to be empowered to make informed choices about gambling and for the wider public to have a well-informed view of how gambling (including lotteries) can contribute to society. This is consistent with our Strategy which includes the priority of protecting the interests of consumers.

We want licensees to make information accessible and more meaningful for consumers to help them understand their gambling choices at an individual level.

Our strategy set out that we want to see licensees across the gambling industry make a step change in the way consumers are equipped to understand and manage their gambling and to do that we will regulate to enhance minimum requirements.

We committed to promoting greater transparency by putting independent and trusted information into the public domain. Consumer choice is heavily influenced by price and it can be difficult for consumers to work out what else matters.

For lotteries this includes considering how to improve the transparency of the contributions they make. This is important information for consumers to help them understand which good causes are being supported and how much of their money goes to the good cause or elsewhere.

Therefore, this consultation makes proposals to strengthen the LCCP to ensure that lotteries continue to be run in a fair and open manner, including that consumers have all the information they require to make informed decisions before deciding to gamble.

# Our Proposals

## Changing the proceeds and prize limits set out in LCCP

The Commission is proposing to implement, without change, the increases in lottery proceeds and maximum prizes that stem directly from the changes proposed in the Order.

The proposed changes will be set out in the Gambling Act 2005 (Variation of Monetary Limits) Order 2020 (the Order) and we are consulting in advance of that Order being made to ensure that society lotteries can benefit from the revised limits as soon as possible.

The implementation of the proposed changes in the licence conditions will be confirmed and implemented only if the Order is approved by Parliament.

It is proposed that subject to the Order being approved the consequent revision to the relevant licence condition will be issued as soon as possible after that, giving three months' notice as required for any changes to licence conditions.

After an opening clause setting out the requirement to apply at least 20% of lottery proceeds to an appropriate cause, the relevant licence condition in LCCP (May 2019), which takes the monetary limits directly from section 99(3) of the Act, says:

### ***'Lotteries – societies and local authorities***

#### ***All lottery operating licences issued to non-commercial societies or local authorities***

*The proceeds of any lottery promoted in reliance on this licence may not exceed £4,000,000 and the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed £10,000,000.*

*The rules of any lottery promoted in reliance on this licence must be such as to ensure:*

***1. that it is not possible for the purchaser of a ticket in the lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other and including any winnings arising from a rollover) more than:***

*i. £25,000; or*

*ii. if more, 10% of the proceeds of the lottery; and*

***2. that membership of the class among whom prizes are allocated does not depend on making any payment (apart from payment of the price of a ticket).'***

The Commission does not consider the proposed increases will threaten the licensing objectives.

We are therefore proposing to amend the LCCP at condition 11.1.1.2 and 11.2.1.2 to permit individual draw proceeds of up to £5 million (raised from £4 million) and annual aggregate proceeds of up to £50 million (raised from £10 million) to reflect the proposed changes to legislation.

The limit on individual prizes, set by section 99(4) of the Act at £25,000 or if more 10% of the proceeds of that draw, is to remain unchanged.

However, the announced change in the limits on proceeds will permit a maximum prize of £500,000 rather than £400,000, provided that the lottery proceeds reach the new maximum level.

To enable societies to benefit from new limits as soon as possible, the Order includes transitional provisions.

The revised limits will be applied on a pro rata basis during the first year that the Order is made and the LCCP changes take effect.

This means that societies will not have to wait until the beginning of the next calendar year to raise above the existing £10 million aggregate proceeds limit.

The transitional arrangements allow lotteries to raise aggregate proceeds up to the sum of:

- £10,000,000; and
- £50 million divided by the total number of days in the year the changes take effect and multiplied by the number of days in that year on and after the effective date

*Note that the effective date will be the date on which the LCCP changes take effect.*

We are proposing to reflect those arrangements (or any subsequent amendments) within the revised condition. As the effective date is determined by the LCCP changes, we can calculate the maximum proceeds amount and state the year in which that amount will apply.

We consider that drafting the revised condition in this way will be clearer for lottery operators, rather than restating the calculations set out in the Order.

We are also proposing to amend the £400,000 limit set out in licence conditions 11.1.1.5a, 11.1.1.5bii, 11.1.1.6, 11.2.1.5a, 11.2.1.5bii and 11.2.1.6 to reflect the increase to the maximum for individual lottery proceeds (which permits a prize of up to 10% of the proceeds of the lottery). These conditions:

- define when lotteries are linked lotteries,
- define when lotteries are linked to a free draw or prize competition; and
- set out rules prohibiting non-linked lotteries from advertising if participants can win prizes, which in aggregate, exceed the current individual prize limit, by selecting the same numbers or number combination in one or more other lotteries.

### **Increasing the information available to consumers**

We are exploring amendments to **Social Responsibility Code Provision 4.3** to incorporate a new requirement (4.3.3) which will make clear the outcome to be achieved and require licensees to follow guidance setting out information that should be made available to consumers.

The proposal is that the guidance will cover what information to make available in relation to:

- where their money goes, including:
  - displaying the proportion of proceeds returned to the good cause upfront (estimated, actual or average for that type of draw)
  - making the information submitted to the Commission regarding how draw proceeds are split between expenses, prizes and profit (good cause return) available to consumers on request
- odds of winning/prize allocation, applying the current requirements in RTS 3 (which currently apply only to remote lotteries) for all society and local authority lotteries
- how funding is allocated for those that offer grants or contested funding pots.

# Proposed amendments to licence condition 11

Changes to licence condition 11.1.1.2 and 11.2.1.2 would enable the revised limits in the Order to come into effect.

The proposed changes also reflect the transitional arrangements planned by DCMS to enable society lotteries to take advantage of the higher limits in the year they take effect, rather than having to wait for the following calendar year.

# Proposed amendments to licence condition 11

<div><b>Amendments to licence condition 11.1.1.2</b>  <b>Lotteries – societies and local authorities</b>  <b>All lottery operating licences issued to non-commercial societies or local authorities</b>  <b>2a</b> Subject to 11.1.1.2b, the proceeds of any lottery promoted in reliance on this licence may not exceed <del>£4,000,000</del> £5,000,000 and the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed <del>£10,000,000</del> £50,000,000.  <b>2b</b> In [year] the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed [amount- to be determined by the commencement date].</div>
<div><b>Amendments to licence condition 11.2.1.2</b>  <b>Lotteries – managers</b>  <b>All lottery operating licences issued to non-commercial societies or local authorities</b>  <b>2a</b> Subject to 11.1.1.2b, the proceeds of any lottery promoted in reliance on this licence may not exceed <del>£4,000,000</del> £5,000,000 and the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed <del>£10,000,000</del> £50,000,000.  <b>2b</b> In [year] the aggregate of the proceeds of lotteries promoted wholly or partly in a calendar year in reliance on the licence may not exceed [amount- to be determined by the commencement date].</div>

We are also proposing changes to licence conditions 11.1.1.5 and 11.1.1.6, to reflect the higher maximum permitted prize.

#### **Amendments to licence condition 11.1.1.5 and 11.1.1.6**

##### **Lotteries – societies and local authorities**

##### **All lottery operating licences issued to non-commercial societies or local authorities**

**5** For the purposes of this condition:

**a** two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all others, unless the maximum amount which a person can win is no more than ~~£400,000~~ £500,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence.

**b** a lottery is linked to a free draw or prize competition if:

**i** a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition and

**ii** the arrangements for the lottery and/or the draw or competition are such that a person may win more than ~~£400,000~~ £500,000 in aggregate as a result of his participation in the lottery and the draw or competition.

**6** If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed ~~£400,000~~ £500,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.

#### **Amendments to licence condition 11.2.1.5 and 11.2.1.6**

##### **Lotteries – managers**

##### **All lottery operating licences issued to non-commercial societies or local authorities**

**5** For the purposes of this condition:

**a** two or more lotteries are linked if any of them is so structured that a person who wins a prize in that lottery will also win a prize in some or all others, unless the maximum amount which a person can win is no more than ~~£400,000~~ £500,000 in aggregate. In determining whether two or more lotteries are linked it is immaterial how many of them are promoted in reliance on this licence.

**b** a lottery is linked to a free draw or prize competition if:

**i** a person's participation in, or his being allocated a prize in, the lottery is a means of establishing his eligibility to enter the draw or competition and

**ii** the arrangements for the lottery and/or the draw or competition are such that a person may win more than ~~£400,000~~ £500,000 in aggregate as a result of his participation in the lottery and the draw or competition.

**6** If a lottery, whilst not a linked lottery, has the feature that by selecting the same numbers in the lottery and in one or more other lottery or lotteries the participant in those lotteries may win prizes which, in aggregate, exceed ~~£400,000~~ £500,000, no advertisement for, nor other marketing of, the lottery may make any reference to that feature.

*Q5- Do you agree with the proposed changes to the wording of licence condition 11?*

- Yes
- No
- Don't know

## Proposed new licence condition 4.3.3 and associated guidance

The proposed introduction of new social responsibility code 4.3.3 would require operators to ensure consumers have the information necessary to make an informed choice, and to take account of guidance provided by the Commission on how they might do this.

The introduction of guidance rather than prescriptive requirements should provide greater flexibility for licensees to deliver the outcome required in a manner that fits their individual business model.

### Proposed new social responsibility code 4.3.3

#### Social responsibility code provision 4.3.3

##### Lotteries – Information to consumers

##### All lottery operating licences issued to non-commercial societies, local authorities and external lottery managers

1. Licensees must ensure that sufficient information is made available to consumers to enable them to make an informed choice prior to participating in a lottery. This must include but is not restricted to details of how and where proceeds are used and the likelihood of winning a prize or how prizes are allocated.
2. Licensees must take into account the Commission's guidance on information to lottery players.

Q6- Do you think that concerns regarding transparency can be addressed with the new social responsibility code 4.3.3 and associated guidance?

- Yes
- No
- Don't know

Q7- Do you agree with the proposed wording of the new social responsibility code 4.3.3?

- Yes
- No
- Don't know

Q8- Do you have any comments on the proposed guidance (given below)?

#### The proposed guidance

##### Information to lottery players: distribution of proceeds and likelihood of winning a prize

December 2019

##### 1 Introduction

**1.1** This note provides guidance to licence holders on the implementation of social responsibility (SR) code provision 4.3.3 set out in our Licence conditions and codes of practice (LCCP).

**1.2** It sets out what we expect all lottery licence holders (society and local authority lotteries and external lottery managers (ELMs)) to consider regarding the information they should supply to consumers:

- before they purchase a ticket,
- regarding where their money goes;
- and what the likelihood of winning a prize is.

**1.3** It also provides guidance to licence holders on how they should make information available and make consumers aware of information available on request.



**1.4** This guidance aims to assist licensees with detail about how to comply with the LCCP and the wider legal requirements and is intended to allow licensees flexibility as to how they comply. This guidance is not intended to be a substitute for legal advice and nothing in this document should be construed as such. Anyone requiring clarification on the regulatory issues contained in this document should seek their own independent legal advice.

**1.5** In this guidance, the word 'must' denotes a legal obligation, while the word 'should' is a recommendation of good practice, and is the standard that the Gambling Commission (the Commission) expects licensees to adopt and evidence. The Commission will expect licensees to be able to explain the reasons for any departures from that standard.

**1.6** The Commission has a duty to permit gambling as long as we think it is reasonably consistent with the three licensing objectives set out in the Gambling Act 2005 (the Act). These objectives are to:

- keep gambling free from crime and from being associated with crime
- ensure that gambling is fair and open
- protect children and vulnerable people from being harmed or exploited by gambling.

**1.7** It is important to provide consumers with clear and easily accessible information to help them form a decision whether to gamble with a particular licensee or not. Licensees should provide effective, transparent and fair information about all lottery products and schemes, and the likelihood of winning a prize. This is an important part of achieving the second licensing objective.

**1.8** This guidance may be amended periodically to take account of what we learn from research with licence holders and gambling consumers about emerging trends in lottery products and player participation, or of changes to legislation. Where proposed amendments are minor, we will consult informally, for example, through industry trade bodies and with consumer groups. For more substantial changes, we will consult more formally.

## **2 Information available to consumers on prizes and the likelihood of winning a prize**

**2.1** Licence holders must make available information to consumers on prizes and the likelihood of winning a prize.

**2.2** Remote lottery licensees (with aggregate annual proceeds exceeding £250,000) are already required to provide information to players on the prizes or payouts available, the way in which winners are determined and their chances of winning a prize, before the customer commits to gamble. Relevant requirements are in Remote Technical Standard 3 (RTS3).

**2.3** All other lottery licensees must include as a minimum:

- a description of the way in which winners are determined and prizes allocated and
- the potential prizes available and the probability (likelihood) of winning tickets being drawn.

**2.4** For some types of lottery where it is not possible to determine the likelihood of winning because it depends on the eventual number of participants, a description of the way in which prizes are allocated and the way in which prizes are determined should be provided.

**2.5** The following items provide guidelines on the type of explanatory content that may be relevant about the way in which winners are determined and how prizes are allocated and should be considered for inclusion. This is not a prescriptive list as each lottery may be different, and societies all promote lotteries differently:

- clear descriptions of what constitutes a winning outcome
- how rollovers operate and the way in which the rollover operates
- information about the amounts that players may potentially win, for example in the form of pay-tables or by showing the odds for particular outcomes (such as matching 3, 4 or 5 numbers).

### **3 Information on how proceeds are used**

#### **Return to the good cause**

**3.1** Lottery licensees should make available the estimated, average or actual (where this is known) return to the good cause for each lottery. Licensees should make this available to consumers prior to them purchasing a ticket. This is in addition to the current provision in social responsibility code (4.3.1), which requires all society lottery licensees to publish annually the proportion of total proceeds allocated to the purposes of the society.

**3.2** Existing LCCP provisions require all lottery licensees to comply with the advertising codes of practice issued by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP). These advertising codes include rules on misleading advertising. Licensees must ensure they do not mislead consumers on what the return to good causes is.

**3.3** Information about the promoting society must be made available. Lottery licensees are required to identify the promoting society within ticket documentation (licence condition 11.1.1.7b and 11.2.1.7b). Social responsibility code 4.3.2 also requires that branded lotteries must ensure that it is clear to consumers (or potential consumers), which society lotteries are being promoted.

#### **Breakdown of proceeds**

**3.4** Lottery licensees should inform consumers that information is available about how lottery proceeds are spent. Licensees currently retain information as set out in Condition 11.1.1, which can be used to provide relevant information. Licensees should ensure the records of each lottery are retained in a format that is easy to extract and share. Specifically, the consumer should be able to request and be provided with any of the following information:

- the total proceeds from all tickets sold
- allocation of the proceeds of each lottery to prizes (including prizes rolled over)
- allocation of the proceeds of each lottery to expenses occurred in promoting and running the lottery; and
- the amount applied directly to the purposes of the society or purposes for which the local authority has power to incur expenditure as the case may be.

#### **Information about grants**

**3.5** Lottery licensees may use proceeds to fund grants to beneficiaries who meet the aims and objectives of their societies. Where this is the case, information should be available to consumers about how the allocation of grants is determined and who has received them.

### **4 How information should be made available**

**4.1** All reasonable steps should be taken to ensure that the information is understandable, easily accessible and presented through the most appropriate means of reaching the consumer.

**4.2** Where this guidance states that information should be easily available to consumers before they commit to a gamble, licensees should consider the medium through which the gambling is conducted and the way they advertise or promote the lottery.

**4.3** For example this information could be included in marketing communications, advertisements, promotions, the lottery website, ticket documentation, or any other information surrounding the draw.

**4.4** Where licensees use the internet or mobile sites to promote lotteries, the information should be located from the menu or drop-down list, but consumers should be directed to this by links within the main lottery pages.

**4.5** Where information is to be made available on request, lottery licensees should publish details on how to request it in way that is likely to come to the attention of consumers. For example, this could be included in marketing communications, advertisements, promotions, the lottery website, ticket documentation, or any other information surrounding the draw.