

**JERSEY GAMBLING COMMISSION**



## **Advice: Membership Gambling Services**

**November 2016**

## **Introduction**

If you run or are a member of a private card club or any other private club that allows gambling, you should review this advice to ensure compliance with the Gambling (Jersey) Law 2012 (the Law) and the provisions of the Charitable and Membership Gambling Services (Jersey) Regulations 2012.

The Jersey Gambling Commission (the Commission) does **not** issue a Licence or Permit for private membership gambling. This is because clubs cannot be commercial enterprises, any gambling that happens must be social, members playing against fellow members and no other persons profiting from these games, except the winners of equal chance gaming.

The Commission does encourage clubs to adopt the advice set out in this publication and to **contact** it stating that they have done so. Failure to do so may mean that the Commission will seek to inspect the club and undertake a compliance audit to ensure that the requirements of the Law are observed.

## **Guiding Principles**

The Guiding Principles are set out in the Gambling Commission (Jersey) Law 2010 and are as follows:

- gambling should be regulated in accordance with generally accepted international standards to prevent fraud and money laundering, and should not be permitted to be a source of crime;
- gambling should be verifiably fair to consumers of those services;
- gambling should always be conducted responsibly and with safeguards necessary to protect children and vulnerable people.

In exercising its functions under the Commission Law and the Law, the Commission must always have regard to these Principles.

## **Membership Gambling and the Law**

The Law defines a Membership Gambling Service under Article 25(2) in the following way:

"a gambling service that -

(a) is provided -

(i) by a group of persons all of whom are natural persons, or

(ii) on behalf of such a group by a member of the group;

(b) is provided to members of that group and to no other person;

(c) is not provided with a view to the profit of any person other than the members of that group; and

(d) is not provided in relation to commercial gambling; and

(e) is not a charitable gambling service."

Regulation 2 of the Charitable and Membership Gambling Services (Jersey) Regulations 2012 narrows this definition and prohibits the participation of children **AND** games of **unequal** chance e.g. there should be no house edge such as ties paid to the dealer.

This definition does not stray into the privacy of a person's home. But it must be understood that if anyone seeks to offer commercial gambling (profiting from another person's gambling) from their home they are committing a criminal offence.

## **Offences**

It is important that membership clubs contact the Commission to discuss their operations and receive any relevant guidance. The headline points of compliance are reproduced below:

- Players must be proper members of the club,
- All members must be 18 or over,
- Gambling is organised by and for members of the club,
- The club is not commercial e.g. any benefits are for the club membership as a whole and not one person.

Clubs must adhere to these Regulations. Providing a prohibited type of membership gambling service now carries a penalty of imprisonment for up to one year and/or an unlimited fine. Provision of a commercial service without a licence is illegal.

## **Conduct of Membership Gambling**

The Commission requires clubs to follow the requirements set out below. The main purpose of these rules is make sure there is a clear understanding of what is commercial and what is membership gambling.

### **Charges**

Previous legislation prohibited charges to be made for members of a club to participate in gambling. To a certain extent this restriction remains in place. However, the Commission realises that arranging and hiring venues does attract costs. Charges now can be made but only to cover the cost of reasonable expenses such as room hire, and the club may carry a surplus for administration costs such as printing or indeed publicity.

The club must be transparent about the purpose of monies raised by these charges. It is recommended the agreement of membership should be noted.

The Commission retains the right to serve a Notice on the Treasurer of the Club to present copies of accounts to ascertain that the conduct of the club serves the membership and is not commercial (Article 31, Gambling (Jersey) Law 2012,).

In relation to a charge the following rule applies:

- no money or money's worth which any of the players puts down as stakes, or pays by way of losses, or exchanges for tokens used in playing the game, is disposed of otherwise than as payment to a player as winnings (e.g. no rake on the pot, or % levied on stake).

A charge therefore, falls into the category of a club subscription and one that may be required at every occasion the club convenes. However, there must be clear separation differentiating a membership fee from a charge to play. A membership scheme with an annual or monthly subscription, with the proceeds used to benefit the club, may operate alongside a charge to play arrangement but records must be maintained showing clearly the fate of such monies.

### **Membership**

Every club must maintain a register of members.

A person who is invited to play and who is not a member will be considered a member of the public and this contravenes the meaning of a private membership club in relation to gambling services.

A charge paid by a person who is not a club member will be considered a commercial transaction and this is a criminal offence.

There can be no temporary membership or guest of member's arrangement in relation to the provision of private membership gambling.

### **Venue**

Most membership clubs meet in liquor licensed premises. However, the licensee or any servant or agent of the licensee must not have any part in promoting or organising the club or the *conduct* of the gaming. The licensee can supply the facilities, such as gaming tables, and benefit from the wet

sales and the purchase of food. However, once the licensee starts promoting and/or organising the members club it is determined to be a commercial gambling activity: this is illegal.

This does not prohibit the licensee from membership of the club or benefiting from room hire or sales of refreshments. But, the licensee must be unconnected with promoting or organising the gaming.

Gaming must not take place in public bars or other areas to which members of the public have unobstructed access. Clubs must make certain that gaming is conducted in separate and private rooms where access by the public is denied or club members may control and refuse the public entry.

### **Advertising**

A club may advertise for membership.

Any advertisement must adhere to the published Advertising Policy. Any promotions must not suggest that the club is in any way commercial and stress that membership is mandatory.

Any advertisement making extravagant claims or contravening in any particular the Advertising Policy will compel the Commission to take action.

**NB:** The club must not be used to advertise a venue. The venue may be cited as the address at which the club meets at such a time and on such a day but any advertisement along the theme of 'Come Player Poker at...' will be considered promoting commercial gambling.

An advertisement must not promote any other matter other than the availability of membership.

### **Record Keeping**

The Commission expect that every membership gambling club keeps detailed and proper records to demonstrate compliance and can provide, on demand, the following records:

- details of membership including any charges for membership;
- proof that the public (and children) were excluded from the gambling;
- the times, places and dates of gambling;
- details of stakes, prize pots and winners;
- any sums deducted from the proceeds of membership fees on account of expenses.

The Commission reserve the right to demand any further information it might reasonably require in order to satisfy itself that the membership gambling services are being conducted legally. In this respect the Commission may require providers of membership gambling services to:

- demonstrate to the Commission how they are **not** a commercial gambling service;
- ensure that the activities they carry out are conducted in a manner which minimises the risks to the guiding principles and are able to demonstrate adequate systems and controls;
- comply with the Commission's social responsibility directives;

- act with due care, skill and diligence;
- work with the Commission in an open and co-operative way;
- disclose to the Commission anything which the Commission would reasonably expect to know.

## **Detail**

### **Minimum & Maximum Stakes**

It is the duty of those organising the gaming to ensure that people gamble responsibly. The club must set clear rules per game relating to the amount per buy in and the limit per buy in.

It is not the Commissions intention to proscribe stakes, but we expect clubs to act responsibly and apply reasonable stakes. In short – be sensible.

### **Age Restrictions**

No one under the age of 18 may be allowed to gamble as part of a membership gambling service.

### **Do any monies have to be donated to a charity?**

No. There cannot be any ‘forced’ deduction from stakes or pot for any purpose, charitable or otherwise. All monies risked must be returned to the winner as a prize.

### **Chips or cash on table?**

The manner of play is optional.

### **Any time restraints?**

There are no prescribed times for games to take place, however this would depend on the venue and therefore coincide with permitted opening hours.

### **Use of Dealers**

In our opinion the Law makes no provision for the use of dealers qualified or not, but please note: unequal chance gambling is unlawful.

On the strict understanding that the card player is not playing against the house, or house bank and a dealer is simply there to deal the cards the Commission is flexible on the use of dealers. Any charge made by or for the dealer (including tips) must be recorded and declared on demand.

### **Tipping**

The club should be mindful that a dealer may have undue influence of the conduct of the gaming by the very fact they handle the cards. The club committee should note that they have a duty of care to the membership and ensure that all chances are equally favourable e.g. no playing against a bank, no opportunity for collusion. The latter point will probably be answered by the system of remuneration for a dealer and the Commission recommends the adoption of *en tronc* remuneration rather than direct tipping.

## **Social Responsibility and Problem Gambling**

Gambling can be a big problem for a small amount of people and clubs should take all proportionate steps to ensure those participating gamble responsibly. There are organisations dedicated to helping those individuals to tackle their gambling addiction and the following contact details may help:

- National Gambling Helpline - Freephone - 0808 8020 133
- Gordon Moody Association - 01384 241 292
- The Jersey branch of Gambler's Anonymous can be contacted through either: - [www.gamblersanonymous.org.uk](http://www.gamblersanonymous.org.uk) or [www.ga.org.je](http://www.ga.org.je)

## **Problem Gambling Indicators**

People suffering from a gambling problem do not always display noticeable signs of their addiction. However, the following examples give some idea of how problem gambling behaviour might present itself:

- A person shows signs of distress, including extended displays of anger whilst gambling on the premises;
- A person remains on the premises for excessively long periods;
- A person starts rows, creates arguments and uses offensive behaviour over their losses;
- A belief that the losses are due to the gaming being fixed;
- Information from a third party that the health or financial status of the customer is being adversely affected by gambling;
- Gamblers admit that they are distressed by the amount of money they spend on gambling.
- A person persistently demanding a refund of gambling losses or seeking to borrow money from a third party on the premises.

**Jersey Gambling Commission**

4<sup>th</sup> Floor Osprey House

Old Street

St. Helier, Jersey, JE2 3RG

Tel: +44 (0)1534 828 540

Email: [info@jgc.je](mailto:info@jgc.je)

Web: <http://www.jgc.je>