



# **Policy Statement for the Conduct, Regulation and Licensing of Track Licences**

**March 2014**

## **Introduction**

This document sets out the Jersey Gambling Commission's (the Commission) policy for the regulation of Race Tracks in Jersey, the relevant permissions, responsibilities and appropriate enforcement. This Policy only applies to those venues where betting is offered by a Race Club or other responsible body.

It is published in accordance with Article 9 of the Gambling (Jersey) Law 2012 (the Law). In publishing this policy, the Commission sets out the circumstances in which it will generally grant or refuse an application for a Licence and the conditions that will apply to it.

## **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 that Law and the Gambling Law, the Commission must always have regard to these principles. The Commission will, therefore, only permit gambling if it considers it reasonably consistent with the pursuit of the Guiding Principles.

This statement will be reviewed by the Commission from time to time and revised after consultation with relevant persons and organisations as appropriate.

## **Statutory Functions**

The Commission's functions with regard to Race Track Licences comprise three key areas: applying licences, compliance and enforcement. In particular, the Commission has a duty to:

- determine applications for Licences, specify the conditions to be contained in such Licences, and determine applications for variation or renewal;
- assess compliance with the Law and with any Licence condition, code of practice or other provision included by virtue of the Law, and request information from Licensees as necessary;
- take regulatory action against any Licensee failing to comply with the conditions stated in this document, or in relation to offences under the Law.

## **Context: Race Track Licences**

### **Defining a Race Track**

For the purposes of this Policy a *Race Track Licence* applies to a facility in Jersey maintained or owned by a Club or Syndicate that wishes to directly offer gambling at and on events arranged by it and at the facility named on the Licence. Gambling includes betting and gaming; gaming for the purposes of this Policy is the permission to run small-scale raffles during a single race day (e.g. tickets sold and chances drawn on the same day).

A Race Track Licence allows the Club or Syndicate to directly benefit from betting with the public on a schedule of set racing or sporting events arranged and promoted by it. The Licence permits lotteries to be promoted by the Club or Syndicate on the understanding tickets are sold on the day of the draw only.

The Licence applies to any betting arrangement (including subcontracting betting operations to a third party) whereby the Club or Syndicate benefits from a percentage of the profits derived from betting with the public.

However, any benefit derived from gambling activity is defined by dedicated use, and as such may only be used to further the promotion of the racing or sporting events (see conditions further on in this Policy) and not personal profit in the form of payment of dividends to members of the Club or Syndicate.

In the purest terms this Licence applies to a Club offering betting services in the manner of a bookmaker. However the betting it may offer is sponsored pool or pari-mutuel betting in the form of the totalisator.

If a Club or Syndicate only arranges racing or sporting events and does not facilitate the type of betting or gaming arrangements outlined above, it will not need a Licence under this Policy. If however, it permits bookmaking on its premises and betting on the events it has arranged, then those persons negotiating and offering bets must be licensed by the Jersey Gambling Commission, namely holders of a Class I or Class II Bookmakers Licence.

The Club or Syndicate may also arrange for the provision other forms of gambling at the event or series of events that does not relate to betting on the outcome of the racing or sporting fixtures it arranges and promotes. The Club or Syndicate may arrange for the provision of Crown and Anchor and Amusement with Prizes, however, these operators must be licenced by the Commission.

Betting on events other than those promoted and arranged by the Club or Syndicate, may only be undertaken by the holder of a Class I or Class II Bookmakers Licence.

## **Policy: General Requirements**

### **Licences: Applications**

Subject to an application process, application is for a licence known as a **Race Track Licence**. The Licence allows the facilitation of gaming and betting by a Club or Syndicate on events they have arranged. In offering betting on these events there can be no deviation from the rules of racing or rules governing other sporting or athletic events.

An applicant for a Race Track Licence must submit to the Commission a schedule detailing all proposed events in detail, including date, approximate timings of each event, when open to the public and closing times. Itemise other gambling to take place at the event and list any of the Commission's applicable licensees the applicant wishes to allow to trade at their facility.

The Commission may at its own discretion request further information or documentation from the licensee/applicant in determining whether to grant a Licence.

Certain conditions apply to the grant of a Licence and remain conditions after it has been granted. For example, once a Licence expires any unfulfilled duties in respect of a condition still apply. In considering an application for any Licence the Commission must ensure that in granting it there is no contravention of the Guiding Principles (as outlined above) and that the application and award of a Licence conforms to the requirements set out in this policy.

The onus is always placed on the applicant to satisfy the Commission that they are fit and proper persons to hold a Licence and that the gambling activity they seek to conduct would not bring the Island into disrepute.

### **Change of Circumstances During the Application Process**

A duty is placed on the applicant to inform the Commission in writing of any change of circumstances pertinent to an application. For instance if the applicant is subject to criminal or civil proceedings arising after the application was made. Any intervening circumstances would understandably alter the veracity of the original statements made to the Commission by the applicant. Once the applicant is aware of any material change he or she must inform the Commission as soon as reasonably possible and before the Licence is issued; failure to do so may result in the revocation of that Licence on the grounds of providing false or misleading information.

[Art. 11(5)]

### **Withdrawing an Application**

It remains the right of the applicant to withdraw an application at any time before it is granted or refused. The applicant must supply a written notice to the Commission stating the intention to withdraw the application. [11 (6)]

### **Applying for the Right Licence?**

In examining the application the Commission must consider whether the Licence applied for is the correct form of approval required or whether the applicant would require another type of approval.

[Art. 12 (1)(f)]

### **Grant of a Licence (Article 12)**

It should be noted that the Commission is not compelled to award a Licence just because someone has applied for one. The Commission may only grant a Licence if it has examined and is satisfied of the applicants:

- **integrity**
- **competence**
- **financial standing**

All points satisfied, the applicant may then be considered a fit and proper person to hold a Licence.

The Commission is also bound to determine whether the grant of the Licence will not be harmful to the reputation and integrity of Jersey in gambling matters along with commercial and financial matters.

[Art. 12(1)(d)]

### **Sufficient Connection Test**

Evidently, the Commission cannot grant a Race Track Licence to any applicant with a track or racecourse outside of the Island. However, it will be a Club or Syndicate making the application for the Licence and as people make up these entities, the significant connection requirement will focus on those constituting the board of the applicant.

[Art. 12(1)(e)]

### **Matters the Commission Must Take into Account**

Without limiting the matters that the Commission may take into account in determining whether to grant a Licence to an applicant, the Commission must take into account the following matters:

- financial standing (e.g. has the applicant such systems in place to honour all stated wagers or prizes);
- whether the applicant has at any time been subject to adverse findings, in either the provision of any professional service or gambling related services by a regulatory / law enforcement agency situated in a country or territory outside Jersey (e.g. good governance and compliance with the rules of racing and effecting bets on that racing);
- whether the applicant has at any time (whether or not in relation to the application) in any case where information was required under Gambling (Jersey) Law 2012:
  - failed to provide any information, or
  - provided to the Commission information which was untrue or misleading in any material particular.

[Art. 12(3)]

### **Convictions**

Remembering that one of the Commission's key licensing principles is to keep gambling crime free, this necessarily extends to all applicants for Licences. The Commission must take into account any convictions, and this includes convictions outside of Jersey the applicant or applicant company has. Convictions include:

- an offence under this Gambling (Jersey) Law 2012, Gambling (Ancillary Services and Miscellaneous Provisions)(Jersey) Regulations 2012 or the Gambling Commission (Jersey) Law 2010,
- an offence under the anti-money laundering and counter-terrorism legislation;
- an offence under the Data Protection (Jersey) Law 2005, the Supply of Goods and Services (Jersey) Law 2009 or the Distance Selling (Jersey) Law 2007;
- an offence of perjury or conspiracy to pervert the course of justice, or any other offence involving fraud or other dishonesty,

- any offence, under the law of a country or territory outside Jersey. [Art. 12(3)(h)]

## **Applying for a New Licence**

If an application is received for a Licence before the expiry of a current Licence for the same or similar activity, the Commission may not necessarily need to require the same degree of information accompanying the application form if the applicant has a good compliance record. In considering the application for a new Licence, the Commission must consider whether it holds any relevant information previously obtained by it in connection with the expiring Licence; and it may rely on that information unless it has any reason to believe that the information may not still be current. [Art. 12(5)]

### **Duration**

A Race Track Licence is valid for one (1) year and that being the actual year it is issued e.g. valid for 2014. Because of the varying nature of dates making up, for example, the racing calendar and the mutability of betting products, persons and devices, a year life cycle seems a proportionate duration for this specific approval. However, if on application for a new Licence there has been no material change of the kind mentioned in the preceding paragraph, the applicant should send with the application form a statement to this effect; this statement should expedite the application process.

### **Compliance History of Licensees**

The compliance history of the Licensee will always be reviewed when considering any application for a new Licence. These matters are prescribed in the Law and are as follows:

The Commission must consider whether the applicant has at any time failed, in any material respect, to comply with a condition on a current or previous Licence, a code of practice or direction given to the person at any time.

[Art. 12 (3)(f)]

The Commission must consider whether:

- at any time a direction has been given on the basis of any default by the applicant;
- an injunction has been issued under Article 36(2) on the applicant;
- or an order has been made under Article 36(4) on the basis of any contravention by the applicant;
- the applicant has been the subject of an order for intervention under Article 37,
- a Licence held by the applicant or any gambling promotion has managed has been revoked under Article 38, or
- the applicant has been served with a final notice of a civil financial penalty under Article 39.

[Art. 12 (g)]

## **Grounds for refusal or revocation of a Licence**

In accordance with the matters the Commission *must* consider when assessing an application, the following matters – which are not exhaustive - may compel the Commission to revoke or refuse an application for a Licence:

- the applicant has held a Licence previously and proved to be incompetent or negligent or dishonest [Art. 38 (3)(b)];
- the Licensee fails to pay fees [Art.38 (c)];
- the Licensee or applicant produced misleading and inaccurate information when applying for a Licence or subsequently under the reporting conditions applied to a Licensee [Art. 38 (3)(d)(ii)];
- the Licensee has breached such conditions of a licence without taking remedial action required and set out in notices from the Commission [Art. 38 (3)(a)];
- on application the person is found not to be bona fide or indeed would require another form of commercial gambling licence [Art. 38 (3)(e)];
- the Licensee holder requests it [Art. 38 (2)(a)];
- Jersey's reputation is imperilled [Art. 38 (3)(f)];
- if the Commission has issued a direction under Art.16(4).

The Commission must articulate reasons for refusing and revoking a Licence in line with Article 43 (notification of decisions) and the right of appeal must be applied under Article 45. [Reg. 4 (1)(j) & Art. 38]

### **Article 43: Notification of decisions**

The Commission must notify the applicant or Licensee (where applicable) of:

- the decision to grant a Licence and the conditions applied to that Licence,
- the decision to refuse a Licence and the reasons leading to this decision,
- any remedial action required by the applicant to obtain a Licence,
- the revocation of a Licence and the grounds for that revocation,
- the effective date of any of these notifications.

**NB: A Licensee has the right to appeal any enforcement decision pursued by the Commission.**

## Licence Conditions

The Gambling (Jersey) Law 2012 contains a set of mandatory licence conditions, which must be applied to all licences. While the Commission has discretion in relation to the application of other conditions contained under subsequent articles, the matters set out under Article 15 compel the application of Article 16 and 17 conditions and at least one supplementary condition (Article 18).

## Glossary

To assist with the understanding of the Policy, the Commission uses the following terms:

“agent” in respect of the licensee and the provision of betting facilities to benefit the licensee, means a person or company authorised by the licensee and approved by the Commission to provide “sponsored pool betting” or operate the “totalisator” on behalf of the licensee.

“licensed track” means a track in respect of which there is for the time being in force a track licence;

“licensee” means the holder of the *track licence* and for the purposes of this Policy (unless otherwise qualified) refers to the ‘occupier’;

“occupier”, in relation to a track, means the person for the time being having the control of the track and therefore the licensee e.g. in relation to Les Landes horse racing, the occupier refers to the Jersey Race Club.

“race” means:

- “dog race” means a race in which an object propelled by mechanical or electronic means is pursued by dogs, and the expression “dog racecourse” shall be construed accordingly;
- “horse race” means a race in which any horse, mare or gelding runs, or is made to run, in competition with any other horse, mare or gelding, or against time, for any prize of whatsoever nature or kind, or for any bet or wager made or to be made, in respect of any such horse, mare or gelding, or the riders thereof, and the expression “horse racecourse” shall be construed accordingly;

“sponsored pool betting” means pool betting by means of facilities provided by, or with the authority of, the licensee of a horse or dog racecourse;

“totalisator” means the contrivance for betting known as the totalisator or pari mutuel, or any other machine or instrument of betting of a like nature, whether mechanically operated or not;

“track” means premises on which races of any description, athletic sports or other sporting events take place;

“race” means:

- “dog race” means a race in which an object propelled by mechanical or electronic means is pursued by dogs, and the expression “dog racecourse” shall be construed accordingly;
- “horse race” means a race in which any horse, mare or gelding runs, or is made to run, in competition with any other horse, mare or gelding, or against time, for any

prize of whatsoever nature or kind, or for any bet or wager made or to be made, in respect of any such horse, mare or gelding, or the riders thereof, and the expression “horse racecourse” shall be construed accordingly;

“race track licence” means a licence, granted under the provisions this policy and subject to compliance with the prescribed conditions for the provision of facilities for betting and gaming by the licensee on the track;

“winnings” includes winnings of any kind and any reference to the amount, or to the payment, of winnings shall be construed accordingly.

The Commission may amend, add or detract from this glossary as it sees fit.

### **Conditions: betting transactions on tracks**

Any betting transaction effected on a track shall be unlawful gambling if persons or companies effecting the betting are not in possession of a current licence issued by the Commission. Persons holding current licences issued by other jurisdictions are prohibited from offering betting facilities on a licensed track unless they are also in possession of a valid and pertinent Commission Licence.

A track shall be either a horse racecourse or other track dedicated to competitive racing fixtures and at which the licensee arranges betting facilities to benefit the licensee, whether operated by that licensee or contracted to a third party on a profit share, rental or fixed fee basis. Where a third party arrangement exists, the licensee shall still be held as the person responsible for the governance of any such betting arrangement.

Betting operated by or on behalf of the licensee shall be effected only in accordance with the pertinent conditions prescribed in this Policy, and in the case of an infraction of any of these conditions the licensee may be subject to a civil penalty and Licence revocation proceedings.

The Commission reserves the right to review conditions applicable to facilities for effecting betting transactions and gambling in general on licensed tracks. This Policy does not include conditions limiting the number of occasions that facilities for effecting betting transactions may be provided, trading periods during a day or the number of betting or gaming operators permitted on licensed tracks. However, the Commission reserves the right to annually review this position.

### **Special rights, and duties of the licensee**

The licensee has the exclusive right to do, or authorise another person to do, any of the following things:

- to carry on pool betting business in any form on races,
- effect betting transactions by way of business<sup>1</sup> on races on terms that the winnings or any part thereof shall be calculated or regulated, directly or indirectly, by reference to the amounts or rates of any payments or distributions in respect of winning bets on races made by way of sponsored pool betting, and on such terms, including terms as to payments to him or her, as he or she may think fit;
- to carry on betting by means of a totalisator on the track.

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<sup>1</sup> ‘By way of business’ has a very particular meaning under this licence. While defined further on in this Policy, it should be noted that the licensee must not effect betting for personal profit. Betting under this licence with the public is allowed but all profits must benefit racing in Jersey and not an individual or group of individuals in the form of personal gain.

Any person offering pool betting or otherwise on any racing event or set of events without the authorisation of the licensee, and even whether this unauthorised person is in possession of Jersey Gambling Commission licence, will be committing the offence of betting illegally.

The licensee shall provide a place, whether in a building or not, where bookmakers (Class I or Class II) may carry on their business and to which the public may resort for the purpose of betting.

The licensee shall not make to any bookmaker or bookmaker's assistant accompanying him or her a charge for admission to a particular part of the racecourse differing in amount from the charge made to any other bookmaker or bookmaker's assistant for admission to that part of the racecourse.

The licensee of a licensed track, so long as a totalisator is being lawfully operated on the track shall not exclude any person from the licensed track by reason only that that person proposes to carry on bookmaking on the track.

Where the licensee permits Class I or II Bookmakers to effect betting on events, the licensee shall take such steps as are necessary to secure that there is space available where they can conveniently carry on bookmaking on that day.

This condition conveys no automatic right of use to Class I or II Bookmakers of any permanent structure other than a structure used by the bookmaker in common with members of the public resorting to the track, or of any position specially appropriated for the use of any particular agent purporting to act on behalf of the licensee.

The licensee shall treat all Class I & II Bookmakers equally. The licensee must not charge any bookmaker or bookmaker's assistant differently from the amount charged to another bookmaker or their assistants for admission onto the track. This charge must be made and received in money. No payment in the form of valuable thing or favour may be demanded or received by or to the licensee as a consideration for facilities offered to a Class I or II Bookmaker for the carrying on of his or her business.

It is a condition that the licensee makes all authorised staff and agents aware of these provisions.

Nothing in this Policy shall be construed as restricting the betting transactions which may be effected by way of sponsored pool betting transactions to betting transactions on the result of a single race, or on the results of races run on a particular track on a particular day, or as preventing the occupier or other betting licensee from giving credit in any betting transaction.

### **Pool Betting**

Where bets on a race or combination of races are made by way of sponsored pool betting, the licensee shall cause the following to be deducted from the aggregate amount stake: the percentage of that amount as the licensee may from time to time determine either generally or with respect to any particular event and cause the whole of the remainder of that amount to be distributed among the persons whose bets are winning bets.

Where facilities for sponsored pool betting are provided by an agent under the authority of the licensee, any amount deducted by the agent shall be paid by them to the licensee. The licensee may also pay to their agent the amount of the expenses properly incurred by that person in connection with the provision of sponsored pool betting facilities.

### **Condition: restriction on the use of monies raised through facilitating betting**

The licensee is not a commercial bookmaker in the same business sense as a Class I or II Bookmaker. Therefore, the licensee shall apply any monies received by and from one day lotteries, joint fees, other gambling pitches, totalisator or sponsored pool betting for the provision of:

- the payment of rates, taxes, rentals, charges, expenses and other outgoings in respect of the occupation and maintenance of the track and its facilities,

and

- for the purpose of improving the facilities for and the standard of racing in Jersey.

**NB:** The licensee, or any person constituting the licensee, must not facilitate gambling or lease areas for the provision of gambling on the track for personal profit.

### **Record Keeping**

The licensee shall keep proper accounts and records in relation to all monies received from betting and gaming and how it was applied to meet the preceding condition. Accounts will be prepared by an accountant appointed or nominated by the licensee<sup>2</sup>. As soon as may be after the accountant has reported on the accounts (**within the 3 months next following the close of the period to which such accounts relate**), the licensee shall deliver to the Commission a copy of the accounts and any accountant's report thereon, together with a report on the steps taken by the licensee to improving the facilities for and the standard of racing in Jersey.

The licensee's accountant shall be charged with the duty of examining and certifying accounts relating to the totalisator.

Accounts shall be kept by the licensee in accordance with the standard period applied to the retention of financial data. The licensee shall supply on demand to any member of the public, on payment of such reasonable charge as they may determine, a copy of the accounts and any report on the use of monies generated by facilitating betting.

**Please Note:** Nothing in this Policy compels the licensee to provide betting or gambling facilities. Or, in the case where sponsored pool or tote betting is offered, compel the licensee or its authorised agent to accept any bet from a member of the public.

### **Power of entry on tracks**

The licensee shall allow any person authorised by the Commission, on production if so required of evidence of his or her authority, to enter any track, at all reasonable times, for the purpose of ascertaining whether the conditions of this Policy are being complied with, and any person who obstructs a Commission officer in the exercise of his or her powers shall have breached the conditions of the licence and be liable to both a civil penalty and probable revocation proceedings.

### **Specific Conditions applied to Totalisators on Licenced Tracks**

Where the licensee or their authorised agent has set up a totalisator on the track, that totalisator shall only be operated at the track named on the Licence and:

- Only while the public is admitted to the licensed track (testing permitted);

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<sup>2</sup> If the licensee has a qualified accountant as a member, then this person's services may be used.

- Only for effecting betting transactions with persons resorting to the licensed track on and races run on the track on that day;
- Only after written agreement from the Commission, with persons wishing to bet on races run at the track on that day from a remote and secure location.

The totalisator shall be a mechanically or electrically operated apparatus and comply with the prescribed conditions.

Where the totalisator is a service hired or contracted by the licensee from a provider/operator located outside of Jersey, this provider/operator must send to the Commission such proofs of testing certification of the device, and if licenced by a foreign jurisdiction details of the regulator and copies of any such licences.

Where the totalisator is a service hired or contracted by the licensee from a provider/operator located in Jersey then this provider must be approved by Permit from the Commission.

It is a condition that the licensee nominates competent persons, whether agents of the licensee or a member of the licensee who will have responsibility for operating the totalisator.

The operator (meaning persons operating the totalisator) is mandated by this Policy to take all necessary steps to secure that, so long as the totalisator is in use, it is in proper working order and is properly operated.

It is the duty of the licensee to provide technical advice to the accountant in respect of the condition of the totalisator and on all matters connected with its operation.

Rules in respect of totalisator betting shall be clear and unambiguous and readily available to members of the public prior to the transaction of bets on any race day

Before receiving any bets in connection with any race, the licensee or its agent must post in a conspicuous position on the licensed track a notice showing the minimum stake (or "betting unit") which will be accepted at the totalisator from persons betting on that race.

The notice must specify the percentage that will be deducted by the licensee from amounts staked by means of the totalisator. This means the whole percentage in terms of a deduction from the prize pot.

The notice must state the terms on which the licensee invites people to bet. These terms should include terms relating to unclaimed winnings. Whereas some bookmakers deem an unclaimed winning bet as open until claimed, this remains a business decision for the licensee. Where this is not the case, the licensee must make a clear statement concerning the validity period for honouring winning bets. The licensee must also state the right to retain any winning sum if it remains unclaimed after the prescribed period. The validity period for honouring an unclaimed bet must be reasonable and not being a time earlier than 48 hours after the conclusion of the race, or, as the case may be, the last of the races in connection with which the bet was made. The Commission recommends that the validity of any open winning bet should be sustained until at least the close of the following race meeting. Unclaimed winnings should be separately recorded.

The licensee shall, in the case of any bets made by means of the totalisator on any race or combination of races make those deductions clarified above from the aggregate amount

staked (less the published percentage) and distribute the whole of the remainder of that amount among the persons holding winning bets.

**Fractions of Pence:** Where the remaining total is not equally divisible amongst the number of winners, leading to fractions rather than whole pence the operator shall increase the prize pot by a reduction in the published percentage.

The operator must have in place a system of testing procedures for the totalisator. Prior to accepting bets, the totalisator must be examined and tested to ensure compliance with this Policy on every race day it is to be utilised.

The licensee shall, within 7 days after the close of each month, submit to the accountant for examination a complete statement of account for that month, giving all such information as he or she may require for the purpose of ascertaining compliance with this Policy and any contractual obligations between the licensee and any agent. These statements should be retained for 5 years from the date they are made.

Where after examination of these statements the accountant believes the totalisator:

- no longer complies with the prescribed conditions
- is not being kept in proper working order
- is not being properly operated

he or she must immediately notify the Commission of these concerns or findings and suspend the totalisator until such time as matters are rectified or the agent or system is replaced.

#### **Annual Returns to the Commission**

The licensee must send to the Commission an Annual Return detailing an account of those bets struck at dedicated events held over the year.

The Annual Return will contain the following information:

- A record of the maximum bet struck and the maximum pay out per event<sup>3</sup> should be supplied.
- The Commission will accept a consolidated win and loss account per event.
- Any incident of attempts at underage betting and age challenges.
- Any incidents of *after the fact* discovery of underage betting.

As part of the Commission's assessment of both the health and award of a Licence, the bookmaker's liabilities and financial position are considered. The licensee must, therefore, make a declaration that he or she has discharged all fees, rates, duties and other legal obligations whether States of Jersey, Parish or of any other description which are now or may at any time hereafter be imposed, assessed or charged in respect of the Licence.

#### **Staff**

The application for a Licence requires the applicant to declare and identify those members of staff engaged as operators of totalisator terminals. Any alteration to this declared staffing must be notified to the Commission (engagement and dismissal included). The Commission does not vet the licensee's staff, but does record its employees. The onus is placed on the

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<sup>3</sup> An event in this context means a day's trading and not each separate event occurring on one particular day.

licensee to ensure persons hired are both competent and honest.

## **Social Responsibility**

### **Underage Provisions**

Licensees must take all reasonable steps to ensure that all staff understand their responsibilities for preventing underage gambling.

These reasonable steps include methods for:

#### **Checking the age of apparently underage customers**

Licensees must require their staff to check the age of any customer who appears to them to be under 21.

Staff should challenge any customer who appears to be under 21 and ask for documentary evidence to support the claim of being 18 years old or older.

This documentary evidence should be identification which:

- contains a photograph from which the individual can be identified
- states the individual's date of birth
- is valid
- is legible and has no visible signs of tampering or reproduction.

Government issued ID such as a driving licence or passport should suffice as documentary evidence.

Anyone who appears to be underage that tries to access the betting facilities and cannot produce an acceptable form of identification must be declined.

#### **After the Fact**

This Licence is subject to a condition that if the licensee (or anyone employed by the licensee to perform an operational function) becomes aware that a young person has had a bet accepted then the licensee must return any money paid in respect of that bet as soon as is reasonably practicable having subtracted any monies that have already inadvertently been returned.

Such an event MUST be reported to the Commission.

#### **Employment**

The Licence is subject to a condition that children and young persons (under 18) are not employed by the licensee for effecting or negotiating bets.

#### **Vulnerable Persons Provisions**

The licensee must take all reasonable steps to ensure that staff involved in the provision of the betting are vigilant for any customer betting beyond their usual means or if unknown displaying symptoms that their gambling is becoming hard to control. It remains the right and duty of the licensee to refuse a bet if a customer is showing any signs that lead the bookmaker to surmise he or she has a gambling problem.

#### **Condition: Donations to the Jersey Social Responsibility Fund**

After consultation on this topic, the Commission concludes that the fairest method for funding is to avoid deploying a levy system across the industry, and establish a set tariff for mandatory contributions.

It is therefore a mandatory condition for the holder of Race Track Licence to donate to the Jersey Social Responsibility Fund. The donation is calculated in the following manner:

- £50 per licensee per annum.

**Please Note:** Failure to make this donation is a breach of a Licence condition and is therefore subject to regulatory sanctions that, without remedy, could lead to both a fine and the revocation of the Licence.

## General Conditions

### Advertising

It is a condition that the licensee ensures promotional material complies with the Commission's Advertising Policy. **NB: Advertising must not be directed at children or young people.** (See: <http://www.jgc.je/policies/policies/policy-advertising/>)  
[Art. 16(2)]

### Cheating

The Licensee should note that cheating is now a criminal offence and any incidence should be reported to the police and notified to the Commission. The licensee must retain records of actual or suspected cheating incidents.

### Compliance with Other Legislation

It is a condition of every Licence that the gambling promotion must comply with the Data Protection (Jersey) Law 2005 and anti-money laundering and counter terrorism legislation.  
[Art. 16(3)]

## Supervisory & Enforcement Conditions

### Specialist Roles

It is a condition of every Licence that the licensee must not allow an individual to perform a function, engage in employment or hold a position, if the licensee knows or can reasonably be expected to know that such performance, engagement or holding is in contravention of a direction referenced under Article 35(2)(c).

Namely, require any individual to:

- not perform a specified function (or any function at all) or,
- not engage in specified employment (or any employment at all) or
- not hold a specified position (or any position at all) in the business.

### Right of Entry and Inspection

It is a condition of every Licence that the holder must co-operate with the Commission to enable it to carry out reasonable routine examinations, including occasional examinations of the licensee without advance notice. [Art. 17(1)]

### Restrictions: Right of Entry & Examination

It is a condition of every Licence that the operator must allow the right of entry and the examination of relevant records by Commission personnel.

### Routine Examination

In connection with any routine examination, it is a condition that the Holder must:

- supply to the Commission information in a format and at times specified by the Commission;
- provide answers to questions asked by the Commission;
- allow officers or agents of the Commission to enter any premises occupied or used by the Licensee for the conduct of the gambling [restrictions set out above];
- allow officers or agents of the Commission, while on the premises [restrictions set out above]:
  - to search the premises,
  - to examine equipment on the premises,
  - to take possession of any information or documents on the premises or accessible (electronically or otherwise) from the premises,

- to take, in relation to any such equipment, information or documents, any other steps that may appear to be necessary to preserve them or prevent interference with them,
- to require any person present on the premises to provide an explanation of such equipment, information or documents, if the person appears to be in possession of relevant information,
- to take copies of, or extracts from such documents.

[Art. 17 (2)]

## **Reporting Conditions**

### **Condition – Change of Control and Membership**

It is a condition of the Licence that the Holder must, on request, provide the Commission with information in relation to the structure, control and membership constituting the licensee. The licensee must ensure there is a system in place to inform the Commission of any incidence of this material change such as the resignation and appointment of members constituting the Board.

### **Reporting Relevant Information to the Commission**

The holder of a Licence must provide the Commission with any information in his or her possession if they know or have reasonable cause to believe that the information is relevant to the exercise of the Commission's functions under the Law in relation to the licensee.

The Licensee should apply an objective test to information of material significance and consider whether a failure to disclose this information would likely result in the Commission being misled on any matter in relation to the exercise of its regulatory functions.

[Art.17 (4)(5)(6)(7)(8) & (9)]

### **Limitation on the use of information**

Unless in cases where the information provided is found to be false [Art. 34], it should be noted that any Statement made by the Licensee under this condition may not be used by the prosecution in evidence against the Licensee in any criminal proceedings. However, nothing prevents the Commission from using this statement for the purpose of pursuing its functions including the imposition of a civil financial penalty.

[Art. 39]

### **General Reporting Condition**

It is a condition of all Licences and Permits that the holder should inform the Commission of any occurrence, incident or event that impacts upon their suitability to hold a Licence or which the Commission might ordinarily expect to be made aware of.

### **Proceeds of crime: Suspicious Activity Reports**

With reference to the Anti-Money Laundering Code of Practice, licensees are required to report on the number of Suspicious Activity Reports (SARs) submitted to the Joint Financial Crimes Unit over the period relating to the regulatory return.

<http://www.jersey.police.uk/FinancialCrime/SARs/Pages/CompilingSAR.aspx>.

### **Current Address**

It is a condition that the Licensee provides and maintains a current address at which the Licensee agrees to accept service of any documents under the Law, and which is to be taken to be that person's proper address for the purpose of Article 7 of the Interpretation (Jersey) Law 1954.

[Art. 21 (g)]

## **Applying principles to functions**

The regulator expects to apply the following principles in exercising its functions under the Law. These principles have been formulated with a view to ensuring that the Commission regulates in a transparent, accountable, proportionate, consistent and focused manner.

### **Regulating gambling in the public interest**

The Commission will regulate in the public interest, having regard to, and in pursuit of, the guiding principles in the Law. In doing so the Commission will work with the sector and other stakeholders and will ensure that it takes into account:

- the need to protect the public;
- the need to maintain public confidence in the sector and the Commission;
- the importance of declaring and upholding proper standards of conduct;
- the competence of Licensees.

### **Reviewing regulatory approach**

The Commission will keep its regulatory approach under review, and will make changes to that approach when appropriate (for example, to reflect experience or new developments or guidance under Article 5 of the Gambling Commission (Jersey) Law 2010).

### **Consultation**

The Commission will consult on changes to its regulatory approach where it is appropriate to do so.

### **Decision making processes**

The Commission will ensure that regulatory decisions are properly reasoned and evidence-based and undertaken in a timely manner.

### **Confirming licensing and regulatory decisions**

The Commission will provide written notification of regulatory decisions, including:

- a clear explanation of the reasons on which the decision is based (in a level of detail proportionate to its impact); and
- details of any appeal mechanism(s).

### **The opportunity to make representations**

The Commission will provide an opportunity for applicants to make representations to it in appropriate circumstances.

### **Minimum burden test**

The Commission will ensure that its regulatory approach imposes the minimum burden necessary to promote the guiding principles. The Commission must take into account the regulatory impact on different types and sizes of applicant and licence holder and ensure, without compromising key principles, it does not unduly hinder the activity.

### **Provision of information**

The Commission will endeavour to keep the sector fully informed of the requirements of the regulatory regime and provide general information, advice and guidance, both on request and on its own initiative, with a view to aiding compliance.

### **Complaints**

The Commission will treat all complaints seriously and will address them in accordance with its complaints procedure.

**Adopting a risk-based approach**

The Commission will adopt a risk-based approach to regulation to ensure that its resources are concentrated where they are needed and can be most effective.

**Proportionality**

The Commission will generally use the least intrusive regulatory tool to achieve compliance and will ensure that any action is proportionate to the importance of the matters to which it relates, having regard to any risk assessment.

**Publication of regulatory action**

The Commission will publish details of any regulatory action taken, except where it considers that this may have a disproportionately damaging effect.

**Gambling should be verifiably fair to consumers of those services.**

The Commission will ensure that the Licences it issues, together with the conditions it imposes and the codes of practice it publishes, set appropriate standards of conduct for Licensees, in connection with any permitted activity.

In the event of non-compliance, the Commission will ensure that conditions are imposed that deter future non-compliance on the part of the Licensee.

**Gambling should always be conducted responsibly and with safeguards necessary to protect children and vulnerable people**

Where applicable to Licensee the relevant gambling service should not present gambling in such a way that access by children and young persons is generally promoted.

**Jersey Gambling Commission**

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