

# Written evidence submitted by The Lotteries Council

11 April 2022

## Response to DCMS Select Committee Call for Evidence - Lotteries Council

As the industry representative body of Britain's Charity Lottery sector<sup>1</sup>, the Lotteries Council welcomes the Select Committee's fresh call for evidence around the future of the National Lottery licence.

The Charity Lottery sector is fully supportive of the role of the National Lottery as a vehicle delivering unparalleled financial support to charities and good causes across the United Kingdom.

While the National Lottery is around nine times the size of the Charity Lottery sector, our member organisations nonetheless provide a long-established, complementary and sustainable funding source for a wide array of charities and good causes, several of which receive funding from both sectors.

While Charity Lotteries, therefore, operate on a different scale – and are governed by a separate legislative framework – the sector does represent a significant part of our country's charitable fundraising mix. The most recent available Gambling Commission statistics show the sector generated some £366.8 million in 2020<sup>2</sup>. The Government is committed to seeing both lottery types thrive<sup>3</sup> – the ultimate beneficiary of this policy being the charities and good causes both types of lottery exist to fund.

The Lotteries Council hopes that the following insight into the wider lotteries sector helps give a more rounded view of the future decision-making process surrounding not only the next National Lottery licence but around how Parliament can better ensure both lottery types can thrive together into the future, better maximising the sizes of the fundraising pot available to support charities and good cause in the vital work they do.

### Legislative Background

- *The legislative underpinning of the National Lottery and Charity Lotteries is vastly different, designed to maintain a distinction between the two sectors, as summarised in Table 1 below.*

Since the 1994 establishment of the National Lottery, policy has been driven by a desire to retain a clear distinction between the National Lottery and Charity Lotteries, with the monopoly status of the National Lottery intended to afford its operator 'protection' to undertake fundraising at a far larger scale, in addition to the ability to offer lifechanging, multi-million pound jackpots.

---

<sup>1</sup> Formally known as Society Lotteries

<sup>2</sup> Gambling Commission Industry Statistics <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/industry-statistics-november-2020>

<sup>3</sup> (2019) DCMS, DCMS Single Departmental Plan, 2019

Table 1

	<b>Small Charity Lotteries</b>	<b>Large Charity Lotteries</b>	<b>The National Lottery</b>
<i>Legislation</i>	Gambling Act 2005	Gambling Act 2005	National Lottery Act 1993, 2006
<i>Regulatory/ Licensing</i>	Requires registration with the local authority in the area where its principal office is located	Regulated by the Gambling Commission	Regulated by the Gambling Commission
<i>Sales per draw</i>	Maximum £20,000	Maximum £5m	Unlimited
<i>Prize per draw</i>	Maximum £25,000	Maximum £25,000 or 10% of the proceeds up to £5m (ie £500,000), whichever is greater	Unlimited (varies across game type and depends on size of draw) with the highest jackpot being £170million
<i>Annual sales</i>	Maximum £250,000	£250,000 – £50m	Unlimited
<i>Percentage return to good causes</i>	20% minimum	20% minimum; 44% average for all large Charity Lotteries	No minimum (varies across type of game, average 25% from 1994-present; draw-based games highest, scratchcards lowest at 5 to 10%)
<i>Direct Tax</i>	None	ELMs pay corporation tax and charities pay irrecoverable VAT	Lottery Duty – 12% of sales proceeds
<i>Regulation on marketing expenditure</i>	Monitored by the Gambling Commission (35% cap removed by Gambling Act 2005)	Monitored by the Gambling Commission (15% cap removed by Gambling Act 2005)	Minimum set in licence
<i>Regulation on investment expenditure</i>	N/A	Monitored by the Gambling Commission	Minimum set in licence
<i>Geographical coverage</i>	Great Britain (excludes Northern Ireland and Isle of Man)	Great Britain (excludes Northern Ireland and Isle of Man)	UK and Isle of Man

In contrast to the liberal regulatory approach shown toward the National Lottery, the Charity Lottery sector is more heavily regulated.

Falling under the auspices of the 2005 Gambling Act, Charity Lotteries are subject to annual turnover limits and per draw limits, while top prizes are capped at £25,000 or 10% of draw revenue – whichever is greater. Theoretically, the top prize of a large Charity Lottery is, therefore, £500,000. In practice, the restrictive nature of the limits imposed means the actual top prizes offered by operators tend to be significantly lower, due to operator concern at inadvertently falling foul of legislative requirements which could lead to censure by the Gambling Commission.

Additionally, Charity Lotteries must deliver a statutory minimum of 20 percent of each ticket to good causes. In another contrast to the National Lottery Act, which permits the National Lottery to operate

across the UK, the Gambling Act limits Charity Lotteries to operate only in Britain.

### **Complementing rather than Competing**

Following extensive consultation, in 2020 the Government passed into law changes to the sales limits governing large Charity Lotteries. The annual sales limit was increased from £10 million to £50 million per licence, while the per draw limit was increased from £4 million to £5 million.

These changes have been universally welcomed by the Charity Lottery sector and by supported charities. Industry analysis from the Lotteries Council<sup>4</sup> and People's Postcode Lottery (Britain's biggest External Lottery Manager)<sup>5</sup> demonstrates that just 18 months into their operation, these important reforms are already proving successful in the key areas identified by Government.

The reforms have lowered operating costs by reducing the number of gambling licences many operators require, while removing some of the cumbersome bureaucracy that accompanies holding multiple licences. As a positive outcome of these reduced administrative costs, several lotteries have already increased their per-ticket percentage contribution to good causes. Other operators report they will soon follow suit once they have concluded the complex process associated with rolling multiple annual operator licences back into one.

On 1<sup>st</sup> March 2022, DCMS published<sup>6</sup> its one year review of charity lottery sales and prize limits. The department stated that:

*"...the increased limits are bedding in well and are beginning to have the intended effect of allowing the society lotteries sector to grow and return more to good causes, whilst also maintaining the unique position of the National Lottery."*

The Lotteries Council welcomes this positive early recognition that the changes have proven to be positive, while again confirming the sector has no discernible impact upon the National Lottery.

We are, however, disappointed and somewhat perplexed that the review went on to conclude that it is *"too soon to reach any firm conclusions on the impact of the changes, especially during a time that the effect of the Covid pandemic has made any evaluation more difficult"* and that no additional reform would be considered at present, despite longstanding Government support for such a move.

As welcome as the 2020 Society Lottery reforms are proving, they fell short of sector demands to increase annual sales limits to £100 million – the option backed at the time by the Gambling Commission and the Government itself, which cited the £100 million limit as its 'preferred option' during DCMS's extensive public consultation on the matter<sup>7</sup>.

---

<sup>4</sup> Hitting the Jackpot: How Charity Lotteries and the National Lottery are complementary, not in competition. Published April 2021 [www.nfpsynergy.net](http://www.nfpsynergy.net)

<sup>5</sup> We're Doing More: The impact of the 2020 charity lottery reforms on People's Postcode Lottery and the charities players support. Published August 2021. [www.postcodelottery.info](http://www.postcodelottery.info)

<sup>6</sup> DCMS 12 month review [https://www.gov.uk/government/publications/review-of-society-lottery-sales-and-prize-limits?utm\\_medium=email&utm\\_campaign=govuk-notifications-topic&utm\\_source=6436a618-e1a2-4162-994a-e64a1c572d59&utm\\_content=daily](https://www.gov.uk/government/publications/review-of-society-lottery-sales-and-prize-limits?utm_medium=email&utm_campaign=govuk-notifications-topic&utm_source=6436a618-e1a2-4162-994a-e64a1c572d59&utm_content=daily)

<sup>7</sup> DCMS (2018) Consultation on Society Lottery Reform. June 2018

The principal reason cited for the Government previously backing a two-stage process was concern that Charity Lotteries could negatively impact the National Lottery, despite the absence of any evidence to support such a hypothesis.

Despite Charity Lotteries funding a number of the same good causes as that of the National Lottery, current operator, Camelot has tended to adopt an oddly hostile attitude to our sector, claiming Charity Lotteries somehow threaten sales and funding to good causes. During the previous Select Committee inquiry on Charity Lotteries, Camelot took to quoting from a single piece of evidence – a report by Frontier Economics – which apparently supports its view. Tellingly, Camelot have never been willing to publish this report.

Nonetheless, these damaging and baseless assertions do persist in some quarters – most recently before the Select Committee on 1<sup>st</sup> March 2022, as part of the current National Lottery inquiry. In response to pointed questions on the impact of larger Charity Lotteries on the National Lottery by Kevin Brennan MP, Dr Darren Henley OBE (Chief Executive, Arts Council England, and Chair, National Lottery Forum) and David Knott (Chief Executive, National Lottery Community) continued to state – without evidence – that ‘umbrella’ Charity Lotteries do pose a threat to the National Lottery.

What is *actually* clear from the substantial body of publicly available evidence – again confirmed by DCMS in March 2022 – is that Charity Lotteries have no discernible impact upon National Lottery sales or return to good causes.

The Gambling Commission has itself investigated the matter on three separate occasions. In February 2017, an update of the Commission’s 2012 and 2015 work found the same conclusion as the earlier studies – namely, that there is “no statistically significant effect of Charity Lotteries affecting National Lottery sales.”<sup>8</sup>

The Gambling Commission’s 2017 advice to DCMS also concluded that: “our position remains that on our assessment of the evidence available, there has not yet been a significant impact on the National Lottery from [umbrella lottery] schemes.”<sup>9</sup>

In addition to the above investigations, official Gambling Commission statistics demonstrate that, overall, the National Lottery and large Charity Lottery sales have grown in tandem for over a decade.

Two notable dips in National Lottery sales during this period are highlighted in Graphic 1, alongside the likely reason for these anomalies - neither of which can reasonably be linked to competition from Charity Lotteries. Strikingly, Graphic 1 also puts into perspective the gulf in size of the two sectors. As noted, the National Lottery is some nine times larger than all other large-scale Charity Lotteries put together.

It is now the case that both Sales and Return to Good Causes for the National Lottery and Charity Lotteries are each at record levels.<sup>10</sup>

---

<sup>8</sup> Gambling Commission (2017), ‘Review of Charity Lotteries advice’. October 2017.

<sup>9</sup> Gambling Commission (2017), ‘Review of Charity Lotteries advice’. October 2017.

<sup>10</sup> Gambling Commission Industry Statistics <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/industry-statistics-november-2020>

Graphic 1



Total sales for the National Lottery (NL) and large society lotteries (LSL), over time – financial year ending 31 March  
Source: Gambling Commission Industry Statistics

### Legislative constraints holding back the Charity Lottery sector

- *Bureaucratic constraints around annual sales limits and a failure to reform the restrictive link between charity lottery prize and sales limits hamper charitable fundraising. Meanwhile, the rise of unregulated Prize Draws poses a threat to Charity Lotteries and the National Lottery.*

Despite it being clear that both sectors are thriving in tandem – just as Government wants them to – and that the Charity Lottery sector does not threaten the hegemony of the National Lottery, the continued bureaucratic burden facing Charity Lotteries continues to restrict the overall ability to maximise the size of the lotteries-driven funding pot available to good causes.

In respect of Prize Draws, the unregulated expansion of these games poses a threat to Charity Lotteries and the National Lottery alike.

#### Annual Sales Limits

Just like the £10 million annual sales limit before it, the current £50 million annual sales limit will again begin to restrict the amounts that many can be raised for good causes, as individual lotteries will again be faced with the rising administrative costs associated with a return to multiple licences and the bureaucratic requirements around each – all costs which detract from their ability to maximise their returns to good causes.

Given that it took over 10 years to see the partial 2020 reforms delivered, we urge the committee to recognise the benefit to good causes of ‘futureproofing’ the Charity Lottery sector now. A £100m annual sales limit – coupled with an increased £10m draw limit – would provide charities greater certainty and continued opportunity to access vital funds further into the future.

A £100 million annual sales limit was backed by the Government, the Gambling Commission and the Charity Lottery sector. Moreover, it continues to be supported by the Institute of Fundraising, over 90 major British charities and politicians from across the political spectrum – including current and former Cabinet Ministers.

### Decoupling Prize Limits from Sales Limits

The Lotteries Council advocates removal of the ‘ten percent rule’ which states that the maximum prize cannot be more than 10 percent of the value of tickets in the draw. Instead, we propose that the market set its own limit up to a maximum prize limit of £500,000 – the current theoretical maximum – regardless of the number or value of tickets in a draw.

In its advice to the Government over several years, the Gambling Commission has defended the 10% rule and recommended that it should continue, stating no more than, “we continue to recommend that ... the prize percentage limit remains the same (10% of individual draw proceeds).” In framing their advice, the Commission was required to ensure that “reform should not jeopardise the position of the National Lottery and its returns to good causes”.

Our proposal meets the Commission’s objectives of keeping the “life-changing” prize space for the National Lottery. Maximum prizes would be no higher than is currently legally possible, but discretion to increase a maximum prize to £500,000 would sit with the charity lottery, allowing them more flexibility to boost sales where they felt necessary by increasing the maximum prize. Greater sales mean a greater return to good causes.

The other limitations on a Charity Lottery’s operation – namely per draw sales limits (whether £5 million or £10 million), the 20% return legally required to be returned to good causes, and the need to cover operating costs, in any event act as a brake on Charity Lotteries offering excessive large prizes. However, The Lotteries Council believes that each individual lottery is best placed to manage this up to the proposed £500,000 limit.

### Prize Draws

Our member organisations are increasingly concerned by the growing prevalence of Prize Draws which, in contrast to the not-for-profit fundraising carried out by lotteries, operate on a commercial basis, unregulated by British gambling legislation.

Given that the Select Committee’s inquiry seeks to shape the basis of the next National Lottery licence in ten years’ time, we believe that the continued growth of the for-profit Prize Draw sector in its current form poses a threat to the fundraising capability of Charity Lotteries and the National Lottery.

For many people, the difference between a prize draw and a lottery is hard to discern, albeit the law treats them very differently. To be designated as a prize draw and not as a lottery, the competition must have an element of skill to proceed to the draw for the prize, such as a question or task; or a free route of entry to the prize draw (although, crucially, not all entries need be free).

Given that Charity Lotteries and the National Lottery exist to raise funds for good causes – whilst both subject to the political and regulatory scrutiny accompanying gambling products – it is difficult to understand how a free ticket entry alongside paid-for plays legitimises Prize Draws from being removed from legislative restrictions on gambling.

The Gambling Commission – rightly – seeks to protect the legitimate lottery sector (and other legitimate gambling sectors) from illegal or black market gambling. This is part of their function as a regulator. However, it is increasingly clear that the legitimate lottery sector – in its widest sense – also requires protection from legal forms of activity that are barely distinguishable from gambling, in the form of Prize Draws.

## Safe Games

- *Charity Lotteries are widely considered low risk from a problem gambling perspective. Nonetheless, our members take the issue seriously and the Lotteries Council has invested in a report on the issue of Responsible Play.*

While not the express purpose of Committee's inquiry, the Lotteries Council wishes to re-enforce that Society Lotteries have long been understood to be a low-risk activity from a problem gambling perspective.

The Gambling Commission acknowledges the sector is "considered to be low risk in terms of the objectives set out in the act."<sup>11</sup> While the UK Government states that the sector has a "...low risk of harm..."<sup>12</sup>

Given that the very purpose of Society Lotteries is to help society, our member organisations recognise the need to protect potentially vulnerable players and evolve in line with changing industry standards.

Most recently, this has seen our industry voluntarily raise the age of play to 18 years. Enacted prior to a required change being applied to the National Lottery, our sector made the change proactively despite no call from Government or the Gambling Commission to do so.

In February 2021 the Lotteries Council commissioned an independent report from NfPSynergy entitled 'Responsible Play, Charity Lotteries and gambling-related harms: a call for proportionate regulation' highlighting the distinct and low-risk nature of our sector, which stands in contrast to many higher-risk commercial betting and gaming products.

The report can be accessed here: [Responsible Play - Charity Lotteries and gambling-related harms: a call for proportionate regulation \(nfpsynergy.net\)](https://nfpsynergy.net/Responsible-Play-Charity-Lotteries-and-gambling-related-harms-a-call-for-proportionate-regulation)

END OF SUBMISSION

---

<sup>11</sup> Gambling Commission Society Lotteries advice, Phase 2. June 2018

<sup>12</sup> Review of the Gambling Act Terms of Reference and Call for Evidence. December 2020