

# Final report on the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland

11 December 2019



An Roinn Dlí agus Cirt  
agus Comhionannais  
Department of Justice  
and Equality

## **ACKNOWLEDGEMENTS**

This Report benefited from the support and technical supervision of the European Commission, notably Edward Tersmette (Policy Coordinator in the Structural Reforms Support Service), and the Department of Justice and Equality, notably the Minister for Justice and Equality, Charlie Flanagan, T.D., Minister for State at the Department of Justice and Equality, David Stanton, T.D., Brendan MacNamara, Barry Quinn and Gerry Hayes.

Significant support was also provided by a number of officials in the United Kingdom Gambling Commission, notably Brad Enright (Programme Director – Regulatory Framework & Outcomes), and the Malta Gaming Authority, notably Yanica Sant (Senior Counsel – Legal, International Affairs and Policy).

Special thanks also to our colleagues in McCann FitzGerald for their assistance and expertise.

**Alan Heuston and Sean Dowling**  
**McCann FitzGerald**  
**11 December 2019**

## FINAL REPORT

### Introduction

1. This final report (the “**Final Report**”) has been prepared by McCann FitzGerald (**MF**), exclusively for, and at the instruction of, the European Commission (the “**Commission**”), in relation to the establishment of a modern regulatory environment and authority for all gambling activities licensed in Ireland (the “**Project**”).
2. The content of this Final Report has been drafted in response to the specifications set out in tender SRSS/C2018/079 (the “**Tender**”). The Tender required the successful contractor for the Tender to develop a detailed set of recommendations for the establishment of an independent gambling regulatory authority which recommendations should include;
  - (i) suggested legislative interventions which would be necessary to give effect to the proposed new regulatory structures;
  - (ii) identification of the potential resources and powers which may be required to enable the regulatory authority to enforce policy and legislation and to take action where necessary against unlicensed or non-compliant operators;
  - (iii) a suggested identification of the division of responsibilities in the new regulatory authority and the functions of its particular divisions;
  - (iv) a suggested draft organigram based on the identified functions and responsibilities;
  - (v) an estimate of the likely staffing needs required to operate the regulatory authority, including key staff skillsets, having regard to the analysis conducted during the course of preparing the Interim Report;
  - (vi) an assessment of the type of governance structures which should be put in place in the new regulatory authority;
  - (vii) an indication of the likely cost of the establishment of the authority;
  - (viii) a proposal for the management and operation (including financial management) of a social gambling fund.
3. The work carried out pursuant to this Tender was carried out by MF under the technical supervision of the Commission and the Department of Justice and Equality (the “**DoJE**”).
4. The recommendations in this Report have been prepared having regard to:
  - 1) the findings of the Report to Government of the Inter-Departmental Working Group (the “**Working Group**”) on the Future Licensing and Regulation of Gambling, March 2019, (the “**Working Group Report**”);
  - 2) our understanding of the regulatory position for gambling in the United Kingdom (“**UK**”) and Malta;
  - 3) feedback received from stakeholders in response to the public consultation which was conducted by MF in Q1 2019; and
  - 4) feedback received from stakeholders at the public seminar organised by the DoJE on 15 May 2019 at Farmleigh House on the Future Approach to Licensing and Regulation of Gambling in Ireland; and

- 5) the Code of Practice for the Governance of State Bodies (published by the Department of Public Expenditure and Reform and dated August 2016) (the “**Governance Code**”).
5. The objective of the Final Report is to help to inform and shape the future framework for the licensing and regulation of gambling activities in Ireland. The proposals set out in this Final Report reflect the views of MF. The ultimate establishment and structure of any new regulatory authority will be a matter for the Irish Government to determine having regard to governmental policy.
6. The contents of this Final Report have been broken down into five defined sections:
  - Part 1 – Executive Summary;
  - Part 2 – Overview of the regulation of gambling in Ireland;
  - Part 3 – Overview of the regulatory structure for gambling in the UK and Malta;
  - Part 4 – Input for proposed design of an Irish regulatory authority for gambling; and
  - Part 5 – Estimate of the likely costs and timelines for the establishment of a gambling regulatory authority.

**McCann FitzGerald**  
**11 December 2019**

## CONTENTS

SECTION	PAGE NUMBER
Part 1 Executive Summary .....	1
Part 2 Overview of the regulation of gambling in Ireland .....	3
Part 3 Overview of the regulatory structure for gambling in the UK and Malta .....	8
Part 4 Input for proposed design of an Irish regulatory authority for gambling .....	22
Part 5 Estimate of the the likely costs and timelines for the establishment of a gambling regulatory authority.....	36
Appendix 1 .....	38
Appendix 2 .....	39
Appendix 3 .....	40
Appendix 4 .....	41
Appendix 5 .....	42

## Part 1 Executive Summary

The objective of this Final Report was to develop a detailed set of proposals, which would help to inform and shape the preparation of the new framework for the licensing and regulation of gambling activities in Ireland. The main findings of our review can broadly be summarised as follows.

1. The current legislation which exists in Ireland to regulate gambling is outdated and in need of significant reform.
2. We agree with the views expressed by The Minister of State at the Department of Justice and Equality Mr. David Stanton, T.D. (the “**Minister of State**”) when he stated that “*There is little or no scope for incremental reform of regulation of gambling – there are effectively no realistic pre-existing structures to build on*”<sup>1</sup>. We do not believe that it would be possible to achieve regulatory reform through the amendment of existing gambling legislation. We would therefore agree with the recommendation of the Working Group that the most efficient and cost effective means of achieving the comprehensive reform that is needed would be to introduce new legislation which would regulate all forms of gambling in Ireland.
3. Due to the level of technological advancement, the speed of innovation and the evolving nature of product offerings, any laws that are introduced to regulate gambling must be sufficiently flexible to keep in touch with such advances.
4. The creation of a single independent regulatory authority that is responsible for all aspect of regulation and licensing is in our view consistent with best practice in the international jurisdictions that we have examined.
5. For any regulation to be effective, it needs to be enforced. We would agree with the comments of the Working Group when it stated that a “*...significant level of staffing will be required from commencement of operations...*” and that the “*...bulk of the staff....would likely be new persons..*”.
6. We would estimate that for the regulatory authority to be effective it would require in the region of 95 - 105 staff.
7. We estimate that the costs of establishing a new regulatory authority would be in the region of €8-9 million.
8. We would estimate that it is likely to take at least two years before a new regulatory authority could become operational. This time frame is largely driven by the fact that legislation will need to be drafted and passed by the Oireachtas. In addition to enacting primary legislation, the regulatory authority once created will need to draft licensing conditions as well as the detailed policy and guidance notes that will be needed by operators. Also, it will take time to recruit staff for the new regulatory authority given that, as the Working Group has acknowledged, the bulk of staff are likely to be new hires.
9. We believe that it should be possible for the new regulatory authority to eventually be self-financing with the costs of the new regulatory authority being covered through licensing fees that are charged to operators. In the initial phases of establishment some Exchequer funding may be required to cover the initial set up costs of the regulatory authority.
10. The Irish Government will need to make a policy decision on the type of licences that the new regulatory authority can issue. We would, however, recommend that consideration be given to limiting the type of licences that are available to a number of broad licence categories. This approach is similar to that adopted in Malta.

---

<sup>1</sup> Quote taken from the speech of The Minister of State at the public seminar on the Future Approach to Licensing and Regulation of Gambling in Ireland, which was held at Farnleigh House on 15 May 2019.

11. For areas where gambling licences currently exist, Government should consider adopting a phased approach to the introduction of any new licensing regime. This may be helpful in ensuring that the new regulatory authority has sufficient capacity to initially focus on the issuance of licences in areas where licences do not currently exist. Existing licences could then be transitioned to the new regime over time.
12. Whilst we note that some state bodies have been constituted in the form of an individual office holder (Data Protection Commission, Insolvency Service of Ireland), we believe that from a governance perspective, consideration should be given to appointing a board of directors/commissioners to oversee the running of the new regulatory authority. The board would be primarily responsible for setting the strategy of the authority and ensuring that the strategic objectives are being achieved. A chief executive officer could then be appointed who, along with an executive team, would be responsible for the overall execution and performance of the strategy that has been set by the board.
13. Any new legislation that is introduced should ensure that the regulatory authority is given sufficient powers to protect consumers and, in particular, minors and those vulnerable to problem gambling behaviour. We would agree with many of the recommendations of the Working Group in this regard, in particular, the need for the creation of a social fund. We would recommend that any such fund should be funded through levies on licensed gambling operators. In order to ensure that every licensee contributes the appropriate amount to the fund we believe that such levies should be mandatory. We would recommend that the new regulatory authority should look to appoint an advisory board of persons with relevant expertise to determine how best to disburse the funds. However, the primary purpose of the fund should be to fund the provision of services by relevant professional providers to treat gambling addiction and to assist the authority and other bodies to raise education and awareness around problem gambling. A detailed analysis of the consumer protection and problem gambling measures that should be contained in any reform of gambling regulation in Ireland was outside the ambit of this Final Report.

**Part 2**  
**Overview of the regulation of gambling in Ireland**

**1. Is regulatory reform required?**

1.1 It is clear from our analysis that the current legislation that exists in Ireland to regulate gambling is unsuited to effectively licensing and regulating modern forms of gambling, and is in need of significant reform. This view is supported by the findings of the public consultation that we conducted, where 92% of all stakeholders who responded agreed that the existing gambling legislation in Ireland is in need of reform.

1.2 The inadequacy of the existing laws and regulations can be seen when one has regard to the following key factors:

- a) Irish gambling law is piecemeal in nature and spread across several different pieces of legislation, giving rise to a disjointed and “siloeed” approach to regulation in Ireland;
- b) there is no single body in Ireland that is responsible for the licensing and regulation of gambling in Ireland. Currently, there is a wide array of stakeholders (including without limitation the Department of Justice and Equality (the “DoJE”), the Revenue Commissioners (the “Revenue”), the Minister for Finance, the Department of Public Expenditure and Reform, Local Authorities, the District Courts and An Garda Síochána (the “Gardaí”) (the Irish police force), having some degree of responsibility for the licensing and regulation of gambling activities in Ireland. This lack of a dedicated and well-resourced licensing and regulatory authority has to date led to uncertainty as to who is responsible for enforcement of the law, a loss of income for the State and a lack of a clear and effective player protection policy;
- c) existing legislation was largely designed at a time when the legislature did not have within its contemplation the huge changes in technology that would occur in the intervening period, particularly the advent of internet-based gambling;
- d) existing law does not clearly define what is a bet versus a game of chance or skill versus a lottery, which has led to uncertainty amongst operators as to the legality of various product offerings in Ireland;
- e) existing laws are inflexible and are not capable of dealing with technological advances and the evolving nature of product offerings;
- f) there is some variation in the age controls for the various forms of gambling permitted within this jurisdiction, although enactment of the Gaming and Lotteries (Amendment) Bill 2019 is expected to introduce consistency in this regard;
- g) existing penalties for non-compliance with gambling laws are largely ineffective and not enforced;
- h) existing laws lack appropriate measures to protect consumers and the vulnerable; and
- i) many forms of gambling which are currently widely available are currently not licensed or regulated under existing laws (e.g. casinos and online gaming).

1.3 The shortcomings in the existing laws and regulations have been acknowledged in numerous previous reports on the regulation of gambling in Ireland including the Report of the Casino Task Force (1996), Report of the Interdepartmental Group (2000) and the Report of the Casino Committee on the Regulation of Gaming in Ireland (2008). This view was also acknowledged



on 15 May 2019 by the Minister of State in his opening remarks at DoJE Seminar on the Future Licensing and Regulation of Gambling in Ireland where he stated:

*“There is little or no scope for incremental reform of regulation of gambling – there are effectively no realistic pre-existing structures to build on.”*

- 1.4 We agree with the views expressed by the Minister of State. We do not believe that it would be possible to achieve regulatory reform through the piecemeal amendment of existing legislation. We therefore agree with the recommendation of the Working Group that the most efficient and cost effective means of achieving the comprehensive reform that is needed would be to introduce new legislation which would provide for the licensing and regulation of all forms of gambling in Ireland.
- 1.5 The General Scheme of the Gambling Control Bill (the “**Scheme**”) which was published on 9 July 2013 was originally intended to replace all existing gaming, lottery and betting legislation (with the exception of that governing the National Lottery). However, while consideration of the Scheme continued within the DoJE, the proposed legislation was not progressed through the Oireachtas, with the result that the Scheme does not take account of all relevant developments or consultations, which have taken place since its publication.
- 1.6 We would, therefore, recommend the drafting of a Gambling Control Bill along the lines of an updated Scheme, with the intent being that the Gambling Control Bill would replace all current gaming and betting legislation once enacted.
2. **Original proposal for regulatory reform**
- 2.1 The Scheme recognised the regulatory lacuna that currently exists and proposed a new regulatory approach, which was approved by Government at the time, including the creation of an Office for Gambling Control Ireland (the “**OGCI**”), which would be an executive office within the DoJE, but not a statutorily independent agency.
- 2.2 According to the Scheme, this regulatory authority would be funded from fees collected from licence holders, and would function as the inspectorate for the gambling sector, with full inspection, enforcement and prosecution powers. The Minister for Justice and Equality (the “**Minister**”) would retain primary responsibility over the functioning of the OGCI as well as having control of policy development.
- 2.3 In 2017, the Minister of State and the newly established Gambling Policy Division in the DoJE commenced a review of plans for a gambling regulatory authority in the context of updating and progressing the proposals under the Scheme. This review examined the structure of gambling regulatory authorities in a number of states, with particular emphasis on the UK and Malta, where significant commonalities exist with the gambling situation in Ireland.
- 2.4 The review concluded that there was no realistic prospect of developing a modern licensing and regulatory structure through incremental development of the current structures or legislation. A significant change of regulatory approach was required. It was concluded that if licensing and regulatory functions were conducted independent of the Minister, it would offer assurance that decision making was free from any potential for undue political influence.
- 2.5 The subsequent Working Group concluded that the modernisation of Ireland’s approach to gambling regulation would require the establishment of an effective authority of sufficient scale and resourcing. Establishment of an independent regulatory authority would also mirror the approach taken in most EU Member States and beyond. The Working Group noted that, increasingly, there is a move towards independent regulation of licensing and enforcement activities. This approach reflects the increasing size, impact and complexity of the gambling industry and the efforts required to licence and regulate activities now, rapidly moving on-line.

- 2.6 On 10 January 2018, the Minister and Minister of State requested the Government to approve the concept of establishing a gambling regulatory authority as an independent statutory body under the auspices of the DoJE. The Minister's proposal drew on previous Departmental experience in the development of independent regulatory authorities. The Government agreed that such an independent regulatory authority would be best placed to conduct the complex range of licensing, regulating, monitoring, compliance and enforcement tasks of the growing gambling industry in all of its facets, and approved the concept of establishing a gambling regulatory authority under the auspices of the DoJE.
- 2.7 On 10 January 2018, the Government also approved the establishment of the Working Group, chaired by the Minister of State. All relevant Departments and Agencies were represented on the Working Group. Over six meetings between February 2018 and January 2019, the Working Group reviewed the provisions of the Scheme to determine if they remained fit for purpose in light of the significant developments in the gambling industry, both domestic and international, in the intervening period. DoJE officials also visited gambling regulators in the UK, Malta and France as part of the process.
- 2.8 The Working Group made a number of recommendations concerning, in particular, the establishment of an independent regulatory authority for gambling.

### 3. Working Group's considerations

- 3.1 In Chapter 3 of the Working Group Report, the Working Group made various recommendations on the future licensing and regulation of gambling in Ireland. In particular, it recommended that:
- a) the Government proceed with the establishment of an independent statutory gambling regulatory authority, in line with its decision of 10 January 2018, as the optimum approach;
  - b) a piecemeal or incremental approach to the development of a modern regulatory function be avoided;
  - c) the DoJE should engage with the Department of Public Expenditure and Reform to determine the potential resources required for the establishment of the regulatory authority;
  - d) the regulatory authority should have the objective of being self-financing to the greatest extent possible;
  - e) the results of the consultancy study funded by the European Commission should be considered in the business planning for the regulatory authority; and
  - f) further consideration should be given to the eventual absorption of the functions of the National Lottery Regulator into the regulatory authority. Given that Ireland is in effect starting from scratch in terms of the creation of a new regulatory framework for gambling, we believe that it should not be an immediate priority to seek to merge the roles of the National Lottery Regulator and the new independent regulatory authority. Also, the current National Lottery licence has circa 15 years to run and the 2013 National Lottery Act provided for its regulation by a bespoke regulator).
- 3.2 In addition, the Working Group Report recommended that the gambling regulatory authority would be responsible for:
- a) licensing and regulating all gambling activities in Ireland;

- b) the setting of appropriate licence fees and duties for gambling activities;
- c) supervising licensees and overseeing gambling operations, through compliance and monitoring activities, on-site inspections, etc.;
- d) ensuring the optimum protection of consumers of gambling activities;
- e) ensuring protection of minors and vulnerable persons through enforcement of licence conditions; and
- f) the prevention of gambling-related match fixing and money laundering.

3.3 According to the Working Group Report, in order to carry out these functions effectively, the regulatory authority:

- a) must be of sufficient scale and impact to effectively regulate the Irish gambling market;
- b) must have appropriate powers of enforcement, including the power to levy fines on operators, suspend or revoke licences etc.;
- c) should benefit from the expertise of Revenue to provide administrative support and expertise for an interim period in relation to the licensing functions currently operated by Revenue;
- d) must be sufficiently resourced in the short to medium term by the Exchequer, to carry out its range of licensing, compliance and enforcement tasks; and
- e) while acknowledging that limited possibilities exist for the reassignment of staff currently engaged in any of the licensing and regulation areas of gambling to the new authority, this matter might be subject to further consideration.

3.4 We agree with the majority of the recommendations of the Working Group. The thrust of the Working Group's recommendations is that the new regulatory authority, once created, would become responsible for all aspects of the regulation and licensing of gambling in Ireland. This would include the transfer of all licensing responsibilities currently held by Revenue, Local Authorities, the Gardaí, the District Court and Horse Racing Ireland to the new regulatory authority. Having a single body that is responsible for all aspect of regulation and licensing is consistent with best practice in other international jurisdictions and it would relieve the administrative burden that the current regime creates.

3.5 The establishment of an independent and well-resourced regulatory authority responsible for all aspects of the licensing and regulation of gambling in Ireland is critical to ensuring that there is accountability as to who is responsible for enforcing gambling regulation in Ireland. In addition, the creation of an independent and well-resourced regulatory authority is an essential component in being able to deliver on the principles that regulation must be effective, proportionate, transparent and consistent in its application.

3.6 For any regulation to be effective, it needs to be enforced. We note that the Working Group asserted in the Working Group Report that a "*..significant level of staffing will be required from commencement of operations...*" and that the "*...bulk of the staff...would likely be new persons..*". We strongly agree with this view. From our discussions with both the UKGC and MGA, it is clear that in their experience, for a gambling regulatory authority to be effective, it needs to be well resourced/funded. This is evident when one has regard to the staffing levels in both the UKGC and MGA. The objective should be to ensure that the regulatory authority is as self-funded from licensing fees as may be possible.

3.7 We recommend that the regulatory authority should issue a relatively small number of broad licence categories, thereby reducing the administrative burden on the Licensing Division and, consequently, the staffing requirements. Obviously, the Irish Government will need to make a policy decision on the type of licences to be issued. One recommendation might be to have the Licensing Division responsible for assessing and granting a small number of licences such as:

- (a) Business to Consumer (“B2C”) Licence – Betting Licence. This licence would have verticals which would allow an operator to get authorised for some or all of the following;
  - (i) retail betting;
  - (ii) online betting;
  - (iii) betting exchange/intermediary (i.e. covers where the operator is not exposed to risk but generates revenue by taking a commission on bets placed on the exchange); and
  - (iv) tote/pari-mutuel/pool betting.
- (b) B2C Licence – Gaming Licence. This licence would allow an operator (including, for example, a casino operator) to get approved for some or all of the following types of gaming;
  - (i) Type 1 games – games of chance played against the house where result determined by RNG (e.g. online non peer-to-peer games of chance) and which would have a,
    - (A) separate vertical for retail; and
    - (B) separate vertical for online;
  - (ii) Type 2 gaming - games of chance not played against the house and wherein the operator is not exposed to gaming risk but generates revenue by taking a commission e.g. poker, bingo. Again there would be a;
    - (A) separate vertical for retail; and
    - (B) separate vertical for online;
  - (iii) Type 3 gaming - controlled skill games e.g. fantasy sports etc. Again there would be a;
    - (A) separate vertical for retail; and
    - (B) separate vertical for online.
- (c) Non Commercial Licences which would include licences/permits for;
  - (i) Low Risk Games. A permit system that would deal with the authorisation of low risk games/raffle (e.g. local lottery draws, bingo for charitable/not for profit purposes) where the stakes/prizes cannot exceed a certain amount or where the net proceeds of the game go to charitable, sporting, religious, philanthropic, cultural, educational, social or civic purposes. A policy decision would need to be made in respect of what would constitute low risk.

- (ii) Personal Licences<sup>2</sup>, and
- (iii) Service Licences<sup>3</sup>.

- 3.8 We would recommend that the application process should be through an entirely online portal to the extent possible. Whilst this online portal may take some time and resources to develop, along with the attendant cost involved, it would in our opinion ultimately ease the burden on the Licensing Division in terms of handling large volumes of paperwork.
- 3.9 The majority of online operators who are likely to apply for operating licences in Ireland may already be regulated in a number of other European jurisdictions, such as the UK and/or Malta, etc. We believe that consideration should be given to aligning the application process to the application process in an equivalent jurisdiction to Ireland (e.g. the UK), such that most of the documentation that operators will be required to submit should be readily available from applications that operators have made in those jurisdictions. It would be necessary to consider the different fees and requirements that might be imposed on applicants in this context.
- 3.10 Consideration should also be given to devising protocols of cooperation with other jurisdictions in order to streamline the application process and improve administrative efficiency. For example, this may include introducing the concept of a Recognition Notice from an overseas regulatory authority, such as the UKGC. This would enable operators who were in a position to provide an unqualified Certificate of Good Standing issued by a regulatory authority in a jurisdiction, which was deemed by the Irish regulatory authority to offer safeguards largely equivalent to those implemented in Ireland, to benefit from a fast track approval process. However, the operators would still be required to be licensed for activities in Ireland by the Irish regulatory authority. The extent of the fast track process would need to be determined, but consideration could be given to relieving such operators from the requirement to go through (either in full or partially):
- a) review of measures to protect player reserves/liabilities; and
  - b) check to ensure that operator has appropriate systems in place for areas like age verification, KYC, systems for detecting harmful behaviour, etc.

#### 4. **Structure of regulatory authority**

- 4.1 In Part 4 of this Report, we examine in detail what an organisational structure of a new regulatory authority might look like.

### **Part 3**

#### **Overview of the regulatory structure for gambling in the UK and Malta**

##### **1. Introduction**

- 1.1 When formulating the recommendations set out in this Final Report, we considered the organisational structures of equivalent regulatory authorities in other EU jurisdictions. For the

---

<sup>2</sup> A policy decision will need to be made as to whether key gambling management personnel should be required to obtain personal licences. If personal management licences were introduced as part of the regulatory regime in Ireland, it would be helpful if there was an ability for persons who hold personal management licences with the UKGC or MGA (or equivalent regulatory authority) to automatically qualify for an Irish personal management licence, subject of course to the outcome of future negotiations between the three states. The Licensing Division could be responsible for liaising with representatives in the UKGC or MGA in respect of these personal licences.

<sup>3</sup> There may be merits in requiring certain suppliers of material gambling services (e.g. software/hardware etc.) to have to register and obtain licences from the regulatory authority.

purposes of preparing this Final Report, we have had particular regard to the regulatory regimes in the UK and Malta.

- 1.2 The reason that these jurisdictions were picked for comparison purposes can broadly be summarised as follows:

#### *UK*

- a) UK gambling regulation has gone through relatively recent reform. The main legislation governing gambling in the UK – with the exception of Northern Ireland – is the Gambling Act 2005 (the “UK GA 2005”). The Gambling (Licensing and Advertising) Act 2014 converted the UK system to a ‘point-of-consumption’ regime similar to what exists in Ireland for remote betting. This change resulted in considerable reform being undertaken in the UK of the regulatory regime that exists for operators;
- b) the UK has one of the highest gross gambling revenues per EU Member States;
- c) the UK is Ireland’s closest neighbour and, similar to Ireland, is an English speaking common law jurisdiction;
- d) the range of gambling activities that are available in the UK closely resemble those in Ireland;
- e) many operators that are licensed and regulated in the UK also provide services to Irish customers, as the markets are viewed as broadly similar; and
- f) there is considerable overlap between the advertising and marketing material and media that are available in both the UK and Ireland. Most UK television channels and newspapers are available to Irish customers.

#### *Malta*

- a) Malta has recently gone through a process of modernising its regulatory regime. Revised laws amending the regulation of Malta’s gambling regime came into effect on 1 August 2018;
- b) Malta has become an increasingly popular EU jurisdiction for operators to become licensed and regulated in, particularly in a post-Brexit environment, when many operators are looking for an EU-based hub from which to provide services;
- c) the range of gambling activities that are available in Malta closely resembles those in Ireland, as many of the operators that are licensed and regulated in Malta are supplying their services to Irish and UK customers via online means;
- d) there has been a simplification of the licensing procedures, which exist in Malta. The revised Gaming Act 2018 in Malta provides for just two types of licence: business to business (“B2B”) and B2C. This simplified approach will be of interest when it comes to considering how best to structure the licensing regime in Ireland.

## 2. **Overview of the organisational structure of the UK Gambling Commission (the “UKGC”)**

- 2.1 As the Irish Government will be establishing a regulatory authority from scratch, it will be relevant to compare the size and structure of the regulatory authorities in the UK and Malta, making provision for economies of scale that might exist, to determine what efficiencies may be achieved when establishing the regulatory authority in Ireland.

- 2.2 The UKGC was set up under the UK GA 2005 to regulate commercial gambling in Great Britain. Although it was not originally within the UKGC's remit, it has, since 1 October 2013, become the responsible regulator for the UK National Lottery.
- 2.3 The UKGC is an independent non-departmental public body, sponsored by the Department for Digital, Culture, Media and Sport ("DCMS"). It had a staff of 355 people as at 31 March 2019 and we understand from meeting with the UKGC that it now has approximately 360 staff members.
- 2.4 The UKGC is funded by fees set by the DCMS and paid by the organisations and individuals whom it licenses for all lawful gambling activities. The section of the UKGC that now regulates the UK National Lottery has its expenses funded by a grant from the National Lottery Distribution Fund.
- 2.5 The UKGC's principal statutory functions under the UK GA 2005 are to:
- a) licence operators and individuals who are involved in the provision of facilities for gambling;
  - b) maintain the regulatory regime, including licence conditions, ensure that it is followed, and take action against those who do not comply with the requirements of the regime. This may include working in partnership with licensing authorities in accordance with the principles originally set out in the concordat entered into between the Commission and Local Government Regulation;
  - c) issue codes of practice regarding the way in which gambling facilities are provided;
  - d) provide guidance to local authorities as to the manner in which they are to exercise their functions under the UK GA 2005; and
  - e) give advice to the Secretary of State on the incidence, effects, and regulation of gambling, as well as the manner in which gambling is carried on.
- 2.6 A high-level summary of the organisation chart for the UKGC is attached at Appendix 1 of this report.

3. **Roles and responsibilities of UKGC governance structure:**

3.1 The organisational structure of the UKGC can broadly be broken down into four governance levels:

- a) Chairperson and Board of Commissioners (the “**Board**”);
- b) Chief Executive Officer;
- c) Executive Group; and
- d) Operating Group.

3.2 Each layer in the structure is responsible for delivering different aspects of the overall objectives of the UKGA. At a high level, the Chairperson and Board are responsible for setting the overall strategy of the UKGC with the Chief Executive Officer, the Executive Group and the Operations Group responsible for the implementation and delivery of that strategy.

*UKGC*

3.3 The UKGC consists of a Chairman and the Board who are appointed by the Secretary of State in accordance with guidance issued by the Commissioner for Public Appointments.

*Chairperson*

3.4 The Chairperson has responsibility for providing effective strategic leadership on the following matters:

- a) formulating the UKGC’s strategy for discharging its statutory duties;
- b) encouraging high standards of propriety and promoting the efficient and effective use of employees and other resources throughout the UKGC;
- c) ensuring that the UKGC, in reaching decisions, takes proper account of guidance provided by the Secretary of State or DCMS;
- d) representing the views of the UKGC to the general public; and
- e) providing an assessment of performance of individual Commissioners, on request, when he/she is being considered for re-appointment to the UKGC.

3.5 When UKGC vacancies arise, the Chairman is responsible for advising the Secretary of State of the needs of the UKGC with a view to ensuring a proper balance of professional, financial and other expertise.

*Board of Commissioners (11 Commissioners)*

3.6 The Board has overall responsibility for ensuring that the UKGC fulfils the objectives set out in legislation. The Board oversees the business of the UKGC. The day-to-day activities of the UKGC are managed by the Executive Group, which is led by the Chief Executive Officer. The core responsibilities of the Board include:

- a) establishing the overall strategic direction of the UKGC within the relevant statute and the policy and resources framework agreed with the responsible Minister;



- b) ensuring that a distinction is made and set down in writing between strategic planning and management, which are the responsibility of the UKGC, and day-to-day management issues which are delegated to the Chief Executive;
  - c) appointing, with the Secretary of State's approval, a Chief Executive (including the terms and conditions of employment);
  - d) delegation of the overall execution and performance of the strategy to the Chief Executive;
  - e) overseeing the extent to which the policy and strategic objectives that have been set by the Board are being achieved by the Chief Executive and the Executive Group; and
  - f) ensuring that the UKGC operates within the limits of its statutory authority and any delegated authority agreed with DCMS, and in accordance with any other conditions relating to the use of public funds.
- 3.7 There are currently eleven Commissioners including the Chief Executive. They provide experience and knowledge from a wide range of sectors and industries to help the UKGC to ensure its licensing objectives are met<sup>4</sup>. Appointments are for a period of between three and five years and may be renewed for a further term. Commissioners work on average one day per week.
- 3.8 The Board meet regularly, through both formal board meetings (circa ten formal board meetings in 2018) and informal meetings with the Executive Group. It monitors and receives regular reports from the Executive Group on day-to-day operations of the UKGC. In addition, the Board is supported by a number of committees/panels/functions, including:
- a) Senior Independent Director;
  - b) Audit and Risk Committee;
  - c) Remuneration Committee;
  - d) National Lottery Committee;
  - e) National Lottery Competition Committee;
  - f) Regulatory Panel;
  - g) Advisory Board for Safer Gambling;
  - h) Digital Advisory Panel; and
  - i) Expert Advisory Group.
- 3.9 The role of these committees/panel/functions is to advise the Board on various governance and strategic matters so as to enable the Board to meet their responsibilities in areas such as;
- a) governance standards;
  - b) risk management;

---

<sup>4</sup> See pages 36-39 of the UKGC Annual Report and Accounts 2018-19 for an overview of the current UKGC Commissioners and their backgrounds and experience. ([www.gamblingcommission.gov.uk/about/Annual-reports-accounts/Annual-report-accounts](http://www.gamblingcommission.gov.uk/about/Annual-reports-accounts/Annual-report-accounts)).

- c) senior management performance and compensation;
- d) the exercise of functions under the National Lottery Act, 1993,
- e) National Lottery licence competitions;
- f) complex licensing applications and regulatory developments;
- g) research, education and treatment programmes needed to reduce the harms of problem gambling;
- h) technology/digital trends and the implications for the commission as a regulatory authority; and
- i) key strategic projects.

3.10 The make-up of these committees/panels can include relevant independent experts. This ensures that the Board can appoint committees/panels to research and develop recommendations on key issues for which the Board are responsible (e.g. developing strategies to reduce gambling related harm).

*Chief Executive Officer (CEO)*

3.11 The CEO is the most senior executive in the UKGC and is responsible for the overall execution and performance of the strategy set by the Board. The CEO is also a Commissioner and a member of the Board.

3.12 The CEO is designated as the UKGC's Accounting Officer by the DCMS Accounting Officer. As the UKGC's Accounting Officer, the CEO is personally responsible for safeguarding public funds, for propriety and regularity in the handling of those public funds and for the day-to-day operations and management of the UKGC.

*Executive Group (11 Executive Directors)*

3.13 The Executive Group is appointed by the CEO and, with the CEO, is responsible for the day-to-day execution of the UKGC's strategy. The scope of the Executive Group extends to:

- a) strategic leadership of the UKGC, which would include making decisions on projects, policy, procedures, issued and cases, which cannot be resolved at an operation level, as they are novel or contentious or significantly affect the UKGC's finances or staff;
- b) reviewing the business delivery, operational and financial performance of the UKGC;
- c) selection of items for escalation to the Board, as well as setting the agenda for Board meetings and clearing Board papers;
- d) collective concentration on strategic issues affecting the UKGC; and
- e) scrutinising and challenging policies and procedures of the UKGC.

3.14 The Executive Group is made up of the:

- a) CEO;
- b) Chief People Officer;

- c) Chief Financial Officer; and
- d) a number of senior executives from the UKGC, who are responsible for several key areas within the organisation, such as licensing and compliance, enforcement and intelligence, regulatory policy and governance, insights and safer gambling, digital, technology and planning, consumer and regulatory strategy, the National Lottery, and the fourth National Lottery licence competition.

*The Operating Group*

3.15 Underneath the Executive Group is the Operating Group, which is a group of programme directors and heads of functions that are responsible for the core operational functions of the UKGC. The Operating Group monitors progress against the business plan and reports on it to the Executive Group.

3.16 The core operational functions can broadly be broken down into the following main areas:

(a) *Licensing Department (excluding National Lottery) – (approximately 60 employees)*

The licensing department deals with all aspects of the application for and issuing of the various licences that the UKGC is responsible for. As part of the application process, it assesses the suitability of potential operators to offer gambling services in the UK, having regard to the licensing objectives and conditions. It also determines what conditions should apply to a licence.

(b) *Compliance Department - (approximately 48 employees)*

The Compliance Department is responsible for ensuring that operators who are issued licences from the UKGC are complying with the conditions of those licences. It also conducts regular assessments of smaller retail operators to review compliance with the licence conditions and LCCP.

In addition, the Compliance Department undertakes regular, planned assessments of the governance arrangements that operators have in place, known as corporate evaluations.

When the Compliance Department discovers issues of non-compliance, it has the power to impose administrative sanctions on operators without the need for taking costly and potentially time consuming civil or criminal sanctions. However, if the breach is significantly serious, it may refer the matter to the Enforcement and Intelligence Department.

(c) *Enforcement & Intelligence Department – (approximately 44 employees)*

The enforcement team is responsible for investigating and taking civil or criminal action for serious instances of wrongdoing. There is significant crossover between the compliance and enforcement departments. Enforcement action is generally only taken where compliance efforts have failed to bring about the necessary standards or resolution, or because the breach in question is egregious e.g. if there is a money laundering issue, it will go straight to enforcement. In addition to prosecuting licensed operators for serious breaches of UK gambling law, the enforcement unit is also responsible for taking action against unlicensed operators.

In the 2018-2019 financial year, the enforcement unit carried out 161 regulatory and criminal investigations. Given the time consuming and costly nature of taking

criminal/civil cases, the unit tends to be selective in terms of the categories of offences it will seek to prosecute.

The 2018-2019 Annual Accounts of the UKGC noted that in the last year, the intelligence team generated approximately 2,700 intelligence reports. These reports related to developments around a number of issues, including betting integrity, social media lotteries, unlicensed remote operators and money laundering. 357 calls were made to the UKGC's confidential telephone line during this period, each of which was assessed and considered for action and dissemination. 95 Incident Referral Forms (IRFs) were submitted by the unit to Incident Management Group (IMG) for enforcement and compliance consideration. Requests for assistance from overseas regulators continued to increase with 115 received. The unit is involved in daily interaction with law enforcement and other partner agencies across the UK and abroad.

The Intelligence team includes the Sports Betting Integrity Unit (the "SBIU") and the Anti-Money Laundering unit. The intelligence team and SBIU provide a confidential ear to the industry and public, as well as being the UKGC's main gateway to partner agencies, such as the National Crime Agency, other public bodies, international law enforcement organisations, and sports governing bodies.

The SBIU receives reports from numerous sources including betting operators, sports governing bodies, law enforcement and tip offs through the confidential intelligence line. This results in referrals to overseas agencies and regulators, such as Europol and Interpol, UK police forces, sports governing bodies and actions taken by the UKGC's own enforcement teams. Reports can include issues such as suspicious betting activity, sports rules breaches, misuse of inside information, UK GA 2005 offences or other criminality.

The 2018-2019 Annual Accounts of the UKGC noted that in the last year, the SBIU received over 600 reports relating to over 20 different sports in Britain and 29 other countries. This resulted in referrals to overseas agencies and regulators, such as Europol and Interpol, UK police forces, sports governing bodies and actions taken by the UKGC's own enforcement teams. Reports can include issues such as suspicious betting activity, sports rules breaches, misuse of inside information, UK GA 2005 offences or other criminality.

(d) *The Policy Management Group*

The Policy Management Group is responsible for overseeing the various policy teams within the UKGC who work on policy-related issues. The focus of the policy teams is primarily around setting framework and influencing the gambling industry and stakeholders therein.

The core policy teams can broadly be aggregated into the following main categories:

i. *Safer Gambling Unit (approximately 10 employees)*

The Safer Gambling Unit is responsible for developing strategies to reduce gambling harms. These strategies include the strengthening of requirements on operators around customer interaction and age and identify verification. In addition, the unit develops frameworks to measure the full range of harms associated with gambling to help target prevention measures.

ii. *Insight Unit (approximately 25 employees)*

The Insight unit is responsible for providing knowledge, expertise and horizon scanning of developments in the industry and associated risks. It also engages with regulatory authorities in other international jurisdictions. It looks to build a wide range of relationships to both help build the understanding of the industry and to collaborate with the industry on challenges and opportunities.

*iii. Consumer and Contact Centre (approximately 22 employees)*

The Consumer and Contact Centre collaborates with organisations such as the Competition and Markets Authority to tackle unfair terms and practices. It also works closely with the Advertising Standards Authority (ASA) to enforce advertising standards.

Last year, the UKGC introduced new requirements into its rulebook, to provide that gambling companies who breach consumer law or break the advertising rules will face tougher action. It also required gambling companies to provide better complaints processes for consumers, including an eight-week deadline for issues to be resolved, and it published new standards and guidance for Alternative Dispute Resolution (ADR) providers. When consumers are not satisfied with the outcome of the complaints process, they can refer to an ADR provider. With input from consumer groups, the UKGC introduced new, stronger standards for ADR providers to meet, including without limitation the types of consumer complaints the UKGC expects providers to take on, principles for considering compensation, and decision quality standards (particularly focused on how providers look at and use evidence).

The Consumer Contact Centre is a key part of the policy management programme and provides the main point of contact for members of the public and consumers for all types of regulated gambling activity in Britain. The information received is used to support the UKGC's approach to regulation, and where it considers a gambling business may not have complied with its rules, it investigates further.

*iv. Regulatory Framework and Outcomes (5 employees)*

The Regulatory Framework and Outcomes team has responsibility for reviewing and overseeing the UKGC's overall regulatory framework.

*v. Strategic Analysis Unit (6 employees)*

The Strategic Analysis unit has broad responsibility for preparing and refining the UKGC's corporate strategy and helping to prioritise certain key issues.

*(e) Corporate Support Functions (approximately 104 employees)*

The corporate support functions are primarily responsible for providing support for other teams within the UKGC. The corporate support functions can broadly be aggregated into the following main categories, and are self-explanatory in respect of the type of work that they carry out within the UKGC:

- (i) legal (8 employees in legal and governance);
- (ii) communications and public affairs (10 employees in corporate affairs);
- (iii) governance (8 employees in legal and governance);
- (iv) finance (12 employees);

- (v) HR (11 employees);
  - (vi) facilities (29 employees in IT and facilities);
  - (vii) data and analysis (14 employees in data and risk); and
  - (viii) programme office (12 employees).
- (f) *National Lottery Group (approximately 30 employees)*

The National Lottery Group is split between the team managing the existing licence and the team managing the fourth licence competition.

#### 4. **Budget for the UKGC**

- 4.1 The UKGC is self funded from licensing fees that are charged to operators. An overview of the UKGC's annual income and expenditure for the period 2018/2019 is set out at Appendix 2 of this report.

#### 5. **Overview of the organisational structure of the MGA**

- 5.1 The Malta Gaming Authority (the "MGA") is the relevant body, which regulates all forms of gambling in Malta. The MGA currently has approximately 180 employees, with an organisation chart set out at Appendix 3 of this report.
- 5.2 The MGA is made up of a number of governance levels, which are discussed in more detail below.

##### *Chairperson and Board of Governors (9 Governors)*

- 5.3 Members of the Board of Governors are appointed by the Parliamentary Secretary for Financial Services, Digital Economy & Innovation. The Board of Governors is primarily responsible for setting the strategy of the MGA and ensuring that the set policy and strategic objectives are achieved. The Board of Governors is also responsible for policy development and overall risk management, and is consulted by Government on policy matters.

##### *Chief Executive Officer (1 CEO and 5 support staff)*

- 5.4 The Chief Executive Officer is responsible for the overall execution and performance of the MGA functions.

##### *Executive Committee*

- 5.5 The Executive Committee is primarily responsible for the execution of the MGA's overall strategic vision, as directed by the Board of Governors. It is responsible for the day-to-day operation and management functions of the MGA as well as the implementation of the MGA's programmes and policies.
- 5.6 The Executive Committee is made up of the Chief Executive Officer, Chief Officer Authorisations, Chief Officer Compliance, Chief Officer Finance and Programme Management, Chief Officer Human Resources and Corporate Affairs, Chief Legal Counsel, Chief Counsel International Affairs and Policy, Chief Officer Risk, and Chief Technology Officer.

*Authorisations Directorate (25 employees)*

- 5.7 The Authorisations Directorate is primarily responsible for the management and processing of the various types of licences.
- 5.8 The Directorate's work includes the processing of new licence applications, the eventual renewals of the existing licences, and key function applications<sup>5</sup>. The Directorate processes Recognition Notices<sup>6</sup> and material supply certificates<sup>7</sup>.
- 5.9 In addition, this Directorate encompasses the Player Support Unit, which assists and facilitates resolutions of complaints and disputes between players and licensed operators<sup>8</sup>.

*Compliance Directorate (16 employees)*

- 5.10 The Compliance Directorate ensures adherence to stipulated licence conditions. It also develops and implements the annual compliance review plan for all the MGA's licensees as well as conducting compliance audits, reviewing various licensees' operations and carrying out on-going monitoring for all land-based and remote licensees.
- 5.11 The Compliance Directorate is also tasked with the undertaking of regulatory supervision, through the review of Monthly Player Funds Reports and financial statements as well as the performance of risk-based thematic reviews.

*Enforcement Directorate (59 employees<sup>9</sup>)*

- 5.12 The Enforcement Directorate is responsible for taking the necessary actions on possible breaches of regulations by licensees. There are approximately 40 staff members who are enforcement officers who are dedicated to regulating land-based casinos. There are two such officers in casinos at all times.
- 5.13 It also tackles illegal gambling activities and assists the Malta Police Force, Courts of Malta and foreign reputable agencies in investigations related to suspected fraud and money laundering. The Directorate also undertakes criminal probity screenings on Ultimate Beneficiary Owners (UBOs) and shareholders, directors, key functions and entities.
- 5.14 It is responsible for ensuring compliance with Anti-Money Laundering (AML) rules and regulations by carrying out on-site and off-site inspections. Furthermore, the team is tasked with carrying out investigations on reported or identified gambling operations performed to or from Malta or through a Maltese legal entity without the relevant authorisations.

---

<sup>5</sup> Licensees are required to identify the persons responsible for the key functions as defined at law, and such persons are, in turn, required to undergo the MGA's scrutiny in order for the MGA to assess their fitness and propriety.

<sup>6</sup> Such a notice is issued by the MGA whereby an authorisation issued by another Member State of the EU or the EEA, or a State which is deemed by the MGA to offer safeguards largely equivalent to those offered by Maltese law, is recognised as having the same effect as an authorisation issued by the MGA for the purpose of providing a gaming service or gaming supply in or from Malta.

<sup>7</sup> Any person offering a material gaming supply listed on the MGA's website to an authorised person may request a material gaming supply certificate from the MGA as well as the review and approval of any changes to the technical set-up, company structure or changes to the documentation that had been previously approved.

<sup>8</sup> According to its latest annual report, from the second quarter of 2019, the MGA has been distinguishing between players' complaints and disputes. The MGA's Player Support Unit will no longer be delving into the merits of a dispute between a player and a B2C licensee, since this function is reserved for the relevant ADR entity. Disputes are understood to be a disagreement between a player and the MGA B2C licensee with which that player is registered.

<sup>9</sup> Approximately 40 of the enforcement directorate are officers who are dedicated to regulating land-based casinos. There are two officers in casinos at all times.

*ICT and Records Directorate (11 employees)*

- 5.15 The ICT and Records Directorate is primarily responsible for ICT security and infrastructure, software development and records management. The team provides technology and infrastructure planning, hosting and data management and is responsible for in-house software development, business and software analysis and the quality assurance of software together with its testing and integration with other systems.

*Finance and Programme Management Directorate (20 employees)*

- 5.16 The Finance and Programme Management Directorate is composed of three main areas of responsibilities: financial matters, programme and quality management as well as information management.
- 5.17 The Programme Management function's main responsibility is to enable the implementation of the MGA's change agenda as well as its corporate strategic plan via projects. In turn, while promoting continuous improvement and quality-at-source throughout the MGA, the Quality Management team promote and oversee the implementation of a Quality Management System (QMS) based on the requirements of ISO 9001:2005<sup>10</sup>.
- 5.18 In addition, the Information Management unit takes care of the overall knowledge and strategic information management of the MGA, including the collection of data from its licensed operators and preparation of different statistical reports for internal and external consumption.

*Risk Management Directorate (1 employee)*

- 5.19 The Risk Management Directorate is responsible for the management of risk throughout the MGA, by systematically assessing and addressing risks and threats associated with the MGA's activities. The Directorate's scope entails identification, analysis, evaluation, treatment, monitoring and reviewing of the risks the MGA is exposed to, with a primary focus to support the MGA in developing and maintaining a risk-based approach to its undertakings.

*Human Resources and Corporate Affairs Directorate (20 employees)*

- 5.20 The Human Resources and Corporate Affairs Directorate is responsible for the overall management and development of the Human Resources function with a focus on maintaining an employee-oriented, high performance culture, which emphasises quality, productivity, and goal attainment including the on-going training and development of the MGA's employees.

*International Affairs and Policy Directorate (6 employees)*

- 5.21 The International Affairs and Policy Directorate is responsible for identifying key regulatory areas requiring a specific focus in order to meet the MGA's policy objectives. The Directorate is also responsible for the EU and international affairs of the MGA, including relations with foreign counterpart regulators and matters relating to European Union and international legislative developments.

*Legal Affairs Directorate (6 employees)*

- 5.22 The Legal Affairs Directorate is tasked with providing advice on matters relating to gambling regulation, general legal and regulatory affairs, and dispute resolution. The Directorate is also responsible for the interpretation of the regulatory framework on gambling as well as the provision of advice to Government on the relevant gambling legislation.

---

<sup>10</sup> <https://www.iso.org/standard/42180.html>



*Internal Audit Directorate (2 employees)*

- 5.23 The Internal Audit Directorate is responsible for the development and implementation of the annual internal audit plans, audit reviews and ad hoc investigations. This Directorate provides assurance and advice in an independent manner on the way the MGA is operating and achieving its objectives, thus ensuring that good corporate governance, effective risk management and adequate control processes are in place and functioning.

*Committees that support the Board of Governors*

- 5.24 In addition to the core operational functions, the Board of Governors is supported by a number of committees/panels/functions. The role of these committees/panel/functions is to advise the Board of Governors on various governance and strategic matters to enable the Board of Governors to meet their responsibilities.

*Supervisory Council*

- 5.25 The Supervisory Council is responsible for overseeing the proper functioning of the MGA's regulatory arm at an operational level. It is also tasked with providing oversight and guidance in relation to ongoing regulatory issues, strategic regulation and acting as an advisory committee to the Authority's Board of Governors and Management. The Council is composed of the senior management of the Authorisations and Compliance Directorates, the Enforcement Directorate as well as the Legal and Policy and International Affairs Directorates respectively.

*Defaulters Committee*

- 5.26 By virtue of the Gaming Act 2018, the Board of Governors set up a Defaulters Committee within the MGA, with a primary function of ensuring compliance of authorised persons to regulatory instruments issued by the MGA. In particular, the Committee is entrusted to review operators that fail to submit the requested submissions, including licence fees and compliance contribution fees and monitor the progress and determine the actions that the MGA should take in such circumstances.
- 5.27 In addition, it evaluates and recommends what enforcement measures should be taken against authorised persons that commit breaches of regulatory instruments, which are deemed sufficiently serious as to require the Committee's direct attention as well as evaluate and determine any changes, which may be required to the MGA's risk-based approach and/or the risk rating of its authorised person/s.

*Commercial Communications Committee*

- 5.28 By virtue of the Commercial Communications Regulations (S.L. 583.09), and with the aim of ensuring that the applicable rules of advertising are being adhered to, during 2018, the MGA set up a Commercial Communications Committee. The Committee reviews any published, promoted or advertised commercial communication that is submitted by the public to the MGA.

*Audit Committee*

- 5.29 The role of the Audit Committee is to assist the Board of Governors of the MGA in ensuring good corporate governance, risk management, oversight of audit/accounting issues and internal controls. Furthermore, the Audit Committee oversees the accounting and reporting processes, the audits of the financial statements, internal audits and internal control systems.
- 5.30 The Audit Committee is authorised to conduct investigations into any matters falling within the scope of its responsibility. The Secretary is responsible for the preparation of the Audit

Committee's agenda in consultation with the Chairperson of the Audit Committee and for ensuring that follow-ups and actions emanating from the Audit Committee are executed. The Secretary also presents reports to the Committee for discussion and action.

*Supervisory Council*

- 5.31 The Supervisory Council was set up by the MGA's Board of Governors to supervise and review the regulatory objectives of the MGA in the exercise of its functions. The Supervisory Council is responsible for ensuring the integrity, consistency and development of the regulatory functions of the MGA.

*Fit and Proper Committee*

- 5.32 The Fit and Proper Committee was set up by the MGA's Board of Governors to assess and determine whether applicants for a MGA Licence are fit and proper persons, (especially from a criminal probity aspect), to be granted a gambling licence and be authorised to conduct gambling business activities.
- 5.33 This committee decides which entities and personnel should be screened, when to conduct enhanced due diligence, and whether or not existing licensees should continue to conduct gambling business under an MGA licence. It is also tasked with recommending changes in the policies and procedures regarding the fitness and propriety of operators and individuals, recommending enforcement actions where it deems necessary and turning down approval requests.

**Part 4**  
**Proposed structure of an Irish regulatory authority**

**1. Key Consideration**

1.1 When developing our recommendations for the establishment of an independent gambling regulatory authority in Ireland, we believe there are a number of key considerations, which the Irish Government will need to consider at a policy level when determining the structure of any new regulatory authority:

A. *What functions will be vested in the regulatory authority?*

1.2 A key aspect to the design of the structure of the regulatory authority will be the functions for which it will be responsible. We would agree with the recommendations of the Working Group<sup>11</sup>, that that the regulatory authority should be responsible for:

- (i) licensing and regulating all gambling activities in Ireland;
- (ii) developing licensing terms and conditions;
- (iii) the establishing of appropriate licence fees and duties for gambling activities;
- (iv) supervising licensees and overseeing gambling operations, through compliance and monitoring activities, on-site inspections, etc.;
- (v) ensuring the optimum protection of consumers of gambling activities;
- (vi) ensuring protection of minors and vulnerable persons through enforcement of licence conditions; and
- (vii) the prevention of gambling-related match fixing and money laundering.

B. *Sufficiently resourced*

1.3 The Government's 2004 White Paper on "Regulating Better" identified the following as the 6 key principles for better regulation:

- (i) necessity;
- (ii) effectiveness;
- (iii) proportionality;
- (iv) transparency;
- (v) accountability; and
- (vi) consistency.

1.4 The establishment of an independent and well-resourced regulatory authority that will be responsible for all aspects of the licensing and regulation of gambling in Ireland is in our view critical to ensuring that there is accountability as to responsibility for enforcing regulation in Ireland. In addition, the creation of an independent and well-resourced regulatory authority is

---

<sup>11</sup> See page 47 of Working Group Report.

in our view an essential component in delivering on the principles that regulation must be effective, proportionate, transparent and consistent in its application.

- 1.5 For any regulation to be effective, it needs to be enforced. We note that the Working Group asserted in its Report that a “..significant level of staffing will be required from commencement of operations...” and that the “...bulk of the staff....would likely be new persons..”. We strongly agree with this view.
- 1.6 From our discussions with both the UKGC and MGA, it is clear that in their experience, for a gambling regulatory authority to be effective, it needs to be well resourced/funded. By way of comparison, and based on the most recently available figures, the level of staffing in the gambling regulators of other European countries is as follows:
- a) UK - 360 people;
  - b) Malta - 180 people;
  - c) Belgium - 60 people;
  - d) Netherlands - 70 people;
  - e) Denmark - 75 people;
  - f) Hungary - 126 people;
  - g) Austria - 30 people;
  - h) Sweden - 50 people; and
  - i) France (ARJEL - online regulator) - 60 people.
- 1.7 Given the estimated size of the Irish gambling market (€6-8 billion<sup>12</sup>), and the complexity of issues that the regulatory authority will be required to deal with, we are of the view that for the regulatory authority to be effective it would require in the region of 95 - 105 people.

*Self-funded*

- 1.8 One of the key recommendations of the Working Group was that the regulatory authority should have the objective of being self-financing with income from licence fees being used to fund its activities.
- 1.9 In order for the regulatory authority to be self-financing, we believe that there are a number of key policy decisions, which the Irish Government must determine before establishing the new regulatory authority.
- a) Type Of Licences To Be Issued

Currently, only betting, the National Lottery and limited gaming and lottery activity are licensed. However, many forms of gambling in Ireland are to date unlicensed and unregulated (e.g. casinos, online gaming, etc.). The Irish Government must determine, from a policy perspective, the types of gambling licences to be issued under any new

---

<sup>12</sup> This figure is cited in the Working Group Report and is based on turnover from betting activities and the National Lottery, with the balance consisting of an estimate of the turnover from gaming machines, local lotteries, private members' clubs and currently unlicensed online gaming activity. For comparison purposes, the UK has an estimated Gross Gambling Yield (amount after taxes, costs, winnings paid, etc.) of £14.4 billion, which suggests a total market size based on turnover of over £100 billion.

licensing and regulatory regime. The extent of the licensing regime will directly assist to support the potential level of fees that might be imposed on operators.

b) Fixed Licence Fees v Licence Fees Based on Revenue

The level of licence fees that operators will have to pay will be a critical factor in determining whether the authority can become self-financing. A key consideration here will be whether licence fees will be based on a percentage of revenue or a fixed fee (or a combination). When determining the level of fees to be applied it will be important that the Department of Finance and Revenue, in conjunction with other relevant Departments, undertake a detailed modelling exercise to forecast the level of fees that could be generated under various licence fee models. For the purposes of modelling potential fees, we would recommend that the exercise be done using data collected on the Irish market (i.e. not based on overseas data). This is to ensure that the fees are commensurate with the size of the Irish gambling market.

c) Retention of Fines/Penalties

In certain jurisdictions, regulators are in a position to retain fines/penalties that they issue to fund their activities. However, this can lead to criticism and suggestions that fines are being issued to fund shortfalls in a regulator's finances. Also, if operators become aware that a regulator has a shortfall, they could seek to use this as leverage when it comes to agreeing solutions to compliance issues.

The imposition of fines by administrative bodies in Ireland can be legally problematic, all the more so if such fines were to be used for the operational costs of the authority seeking to impose them.

In the UK, the UKGC does not retain fines/penalties that they issue. Where the UKGC has issued a penalty in respect of a regulatory failing or breach, in the majority of cases the penalty is paid directly to a benefactor (where a benefactor has been identified) or to a nominated responsible gambling charity. Only the direct costs of the UKGC (e.g. legal fees for investigations etc.) and a reasonable share of expenditure incurred, which is directly referable to the investigation or the imposition and enforcement of the penalty, is retained by the UKGC. In the event that a fine is issued for a regulatory breach, the UKGC will collect the fine and pay it to the consolidated fund of HM Treasury. Again, it will deduct costs incurred in carrying out its investigation under the principle above.

We would recommend that an approach similar to that adopted by UKGC, be applied in Ireland, subject to legal advice.

*Phased approach to staffing*

1.10 The proposed organisation structure set out in this Report looks at the optimum structure that should be in place when the regulatory authority becomes fully operational. However, from speaking to UKGC and MGA it may be feasible to establish the structure on a phased basis. By adopting a phased approach, it may provide an element of flexibility, so that if it appears that more/less operators are seeking licences than originally contemplated, then one can then seek to adjust staffing levels appropriately.

1.11 In creating a regulatory authority, we would see three main phases:

a) Phase 1 – Licensing – what needs to be in place to consider/grant licences (including without limitation the preparation of codes of practice, guidance documents for operators, etc.);

- b) Phase 2 – Compliance – what frameworks need to be in place for reviewing compliance;
- c) Phase 3 – Enforcement – what frameworks need to be in place from an enforcement perspective.

1.12 By breaking down the creation of the organisation in this manner, it may enable one to recruit staff on a phased basis. For example, it is likely that a larger licensing team may be required Day 1 to deal with the task of licensing the industry. Once licences have been issued and, assuming that there is a long enough periods between when licences need to be renewed, it may then be possible to redeploy some of these staff members to other functions. By structuring the establishment in this manner, it may help to create flexibility to deal with the initial volume of applications that will be received before the relevant function morphs back into its normalised size for dealing with business as usual.

*Phased approach to licensing*

1.13 It will be a matter for Government to determine what types of gambling should be licensed. Whilst there is currently a licensing regime for betting and limited forms of gaming and lottery activity, the same does not apply to several significant forms of gaming (casinos, online gaming). This, therefore, means that many of the operators/products that will be regulated by the new regulatory authority will be operators/products that will be licensed and regulated for the first time in Ireland.

1.14 The Working Group Report proposed that licensing categories be considered for betting, gaming, gaming machines, bingo, casinos and online. It should be noted that online gambling is essentially a channel and not a different form of gambling in itself.

1.15 All such activities are present in Ireland, with the exception of commercial licensed casinos, although private members' clubs exist providing casino type gaming.

1.16 The holders of remote bookmaker's licences and remote betting intermediary's licences, issued under the Betting Acts 1931-2015, are licensed until 30 June 2021. To ensure that there are sufficient resources available within the authority for the rolling out of the various forms of gambling licences, consideration could be given to examining the possibility of extending existing remote bookmaker's licences and remote betting intermediary's licences for 12/24 months. The duration and renewability of licences and any extensions would be a matter of Government policy including payment of the relevant fee. A legislative amendment is likely to be necessary to facilitate the charging of a licence fee. A transition period may be helpful in ensuring that resources can be dedicated to rolling out the other gambling licences. We have factored this into our considerations when preparing the costings, which are set out at Part 4 of this Report.

*Licence Terms to Run from Date of Grant*

1.17 Should licences be subject to renewal, we recommend that the term of a gambling licence should run from the date that each individual operator's licence is granted, rather than having the renewal date for all licences occurring at the same time as is currently the case. This will avoid a situation arising for both the regulatory authority and operator, where all licences are up for renewal at the same time, which can create bottlenecks and administrative burdens.

*National Lottery*

1.18 One of the recommendations of the Working Group was that further consideration should be given to the eventual absorption of the functions of the National Lottery Regulator into the regulatory authority. The UK National Lottery was initially established outside of the UKGC as a stand-alone statutory body. The functions of the UK National Lottery Regulator were then

merged into the UKGC. According to an impact assessment carried out by DCMS, it was felt that the absorption of the functions of the UK National Lottery Regulator into the UKGC would help to ensure that regulation continued to protect the public, particularly in light of rapid change and innovation in the overall gambling market, while allowing regulated sectors to flourish in order to deliver the full range of public benefits. The UK Government believed that the merged body would be well placed to advise on gambling and National Lottery matters, make evidenced-based regulation easier to achieve, and create synergies in understanding game and technological developments.

1.19 Feedback from our discussions with the UKGC was that this took time. Given that Ireland is in effect starting from scratch in terms of the creation of a new regulatory framework for gambling in Ireland, we believe that, initially, it may not be efficient to seek to merge the roles of the National Lottery Regulator and the new independent regulatory authority. In addition, the current National Lottery licence has circa 15 years to run and the 2013 National Lottery Act provided for its regulation by a bespoke regulator. For that reason, our proposed structure does not contemplate that the regulation of the National Lottery would come within the ambit of the new regulatory authority.

## 2. Structure

2.1 Having regard to the considerations set out above, we have set out at Appendix 4 of this report a suggested organisational structure that may be suitable for an Irish gambling regulatory authority.

2.2 By reference to this proposed organisational structure, we have set out below a brief overview of the proposed staffing levels that would be required, as well as an overview of the division of responsibilities between the relevant functions of the new regulatory authority.

### *Governance framework of the regulatory authority*

2.3 Whilst it is contemplated that the new regulatory authority will be independent, we understand that its governance and administrative oversight processes and arrangements must be aligned with the governance requirements applicable to public sector bodies as set out in the Governance Code. Having regard to the provisions of the Governance Code, we note that whilst exemptions from specific provisions in the Governance Code may be justified in certain situations, it should only be on a by exception basis, where those provisions can be achieved by other governance measures. Our suggested organisational structure seeks to apply the provisions of the Governance Code as much as possible. To the extent that derogations from the Governance Code are to be made, this would impact on the proposed organisational structure that has been proposed.

2.4 In accordance with the Governance Code, an oversight agreement will need to be put in place between the new regulatory authority and the DoJE. This is in common with the approach taken by other independent regulatory bodies, such as the Data Protection Commission and the Insolvency Service of Ireland. This oversight agreement would set out the broad corporate governance framework within which the authority would operate, and would define key roles and responsibilities that underpin the relationship between the authority and the DoJE. It is further to be expected that the authority will engage in Governance meetings, on at least a twice-yearly basis, with the CJE Governance Unit in the DoJE, as provided for under the Governance Code.

2.5 In addition to our suggested governance structure, a number of alternative organisational structures were considered. For example, the Data Protection Commission's governance structure has a Commissioner and a number of Deputy Commissioners reporting to the Commissioner. The Deputy Commissioners are the heads of the various operative functions within the Data Protection Commission. The Insolvency Service of Ireland has no provision for

a Board or Commissioners. However, it is our recommendation that a board of directors would be beneficial for the reasons outlined at paragraph 2.6 below.

*Appointment of a Board of Directors*

2.6 We recommend that a board of directors is appointed to the independent regulatory authority. Whilst we note that some state bodies have been constituted in the form of an individual office holder, we believe that having regard to the nature of the activities that the regulatory authority will be required to perform, it would be preferable from a governance perspective to appoint a board of directors. The board would be responsible for leading and directing the activities of the new regulatory authority, and would be made up of a range of individuals with relevant experience and expertise in areas such as licensing, compliance, enforcement, player protection, advertising, AML, social funds, betting integrity and problem gambling.

2.7 We set out below a brief overview of some of the reasons why we believe that a board of directors should be appointed in this instance:

a) Good governance

The Governance Code provides a framework for the application of best practice in corporate governance. Whilst exemptions from the Governance Code may be justified in certain situations, where it can be seen that the objectives of those governance provisions can be achieved by other measures, we do not believe that this is a scenario where a derogation from the Governance Code should be made.

b) Segregation of duties

The appointment of a board helps to create a segregation of duties between the board, who would be responsible for setting the strategy, and management, who would be responsible for implementing the strategy that has been set at board level. It also provides for a greater degree of accountability, as it enables the board to regularly review the performance of senior management.

c) Access to expertise

The independent gambling regulatory authority will need to deal with many complex issues, ranging from licensing, compliance, enforcement, player protection, advertising, AML, social funds, betting integrity and problem gambling. The advantage of having a well-constituted board of directors is that it enables the board to draw on expertise from key areas of relevance and experience.

d) Accountability for use of licence fees and social funds

As the new regulatory authority will be responsible for the collection of significant licensing fees and of levies to contribute to a Social Fund, we believe that it may be preferable from a governance perspective for a board to be in place to ensure that there is independent accountability on how those fees/funds are being used.

e) Fines/penalties/enforcement action

As the regulatory authority will be responsible for ensuring compliance with the relevant legislation, a key function may involve the imposition of sanctions for areas of breach (subject to obtaining the relevant legal advice from the Attorney General). A board of directors would ensure that there is a level of independence brought to all enforcement action.



- 2.8 We envisage that, subject to the policy decision taken, the proposed board structure would be prescribed in the new gambling legislation. Such legislation should set out a maximum number of directors to be appointed, the maximum period that directors may serve before re-appointment, and the executive and non-executive nature of the directors.

*Role of board of directors*

- 2.9 The board of directors should be collectively responsible for leading and directing the authority's activities. The board should be primarily responsible for setting the strategy of the authority and reviewing that the strategic objectives are being achieved. The board could also be responsible for other functions, which could include the following:
- a) overseeing the achievement of policy and strategic objectives by the Chief Executive and the Executive Group;
  - b) setting performance objectives and reviewing the extent to which those performance objectives are being met;
  - c) working with the Minister and DoJE to monitor the implementation and performance of the regulatory authority;
  - d) setting annual budgets and business plans;
  - e) establishing risk management policies and procedures; and
  - f) appointment, remuneration and assessment of the performance of, and succession planning for, the Chief Executive and Executive Group.

*Composition of Board*

- 2.10 The board should meet regularly. The UKGC had circa ten formal board meetings in 2018.
- 2.11 We recommend that the board should be comprised of a combination of executive and non-executive directors. Non-executive board members should bring an independent judgement to bear on issues of strategy, performance, resources, key appointments (working with the DoJE and the Public Appointments Service), and standards of conduct. Board members should have the skills and knowledge appropriate to the activities of the regulatory authority and to enable them to discharge their respective functions and duties. In compliance with the Guidelines on Appointment to State Boards, in preparing a specification for a role on a State Board the Minister should consult with the Chairperson of the new regulatory authority on the specific skills that are required on the Board.
- 2.12 Consistent with best corporate governance practice and, as stated in the Governance Code, no member of the authority's board should serve more than two full terms of appointment, or should hold appointments to more than two State boards at the same time (unless the specific statutory provisions relating to the authority or the other State body enable such service).
- 2.13 In accordance with the Governance Code, we would recommend that the board should adopt a statement of strategy for a period of 3-5 years ahead or as otherwise mandated in the new gambling legislation.
- 2.14 To preserve the independence of the Board, we would not recommend that a representative from gambling operators be appointed to the Board. To the extent that a representative was appointed to the Board, this could potentially lead to conflicts in terms of policy decisions and in the area of the approval of enforcement actions and sanctions.

- 2.15 The board should publish an Annual Report of its activities.
- 2.16 In addition, the board of directors could be supported by a number of committees/panels/functions. The role of these committees/panel/functions would be to advise the board on various governance and strategic matters, so as to enable the board to meet their responsibilities.

*Chairperson*

- 2.17 The Chairperson would be responsible for leadership of the board. In addition, the Chairperson could be responsible for:
- a) setting the agenda for board meetings and managing the agenda to ensure that adequate time is available for discussion of all agenda items. When setting the board agenda, the Chairperson should meet in advance with the Chief Executive with a view to agreeing the agenda items;
  - b) ensuring that the board receive accurate, timely and clear information in advance of all board meetings;
  - c) ensuring that there is effective communication between the authority and all stakeholders, including the DoJE;
  - d) in conjunction with the DoJE, assessing the specific skills that are required on the board, with a view to ensuring that directors are appointed to the board who have the relevant skills/expertise that the board will require to carry out its functions; and
  - e) ensuring that annual reports, financial statements and progress reports are provided to the Minister and the Minister of State on a timely basis, setting out the activities of the regulatory authority and its progress in delivering on its strategy.
- 2.18 In accordance with the Governance Code, the Chairperson and the board would be responsible for reporting to the Minister on the operation and proper functioning of the regulatory authority, including attendance at twice-yearly governance meetings with the DoJE.

*Recommended functions and responsibilities of the regulatory authority and suggested staff numbers*

*Chief Executive Officer (CEO plus 1/2 support staff)*

- 2.19 We recommend the appointment of a Chief Executive as the most senior executive in the regulatory authority. The CEO would be responsible for the overall execution and performance of the strategy set by the board and would be a member of the board.
- 2.20 In addition, the CEO would, as Accounting Officer, be accountable to the Public Accounts Committee (the "PAC") of the Oireachtas on the basis that the financial statements of state bodies would generally be audited by the Comptroller and Auditor General and laid before the Oireachtas.

*Executive Group*

- 2.21 To assist the CEO in the management of the regulatory authority's day-to-day operations, we recommend the appointment of an Executive Group. The Executive Group would report directly to the Chief Executive, and would be responsible for the day-to-day operation and management of functions delegated to them by the Chief Executive.

- 2.22 The Executive Group would comprise of senior staff that are responsible for the core operational functions in the regulatory authority. In the organisational structure set out in this Report, we propose that the Executive Group would comprise the CEO and the Heads of the;
- a) Licensing Division;
  - b) Compliance Division;
  - c) Enforcement and Intelligence Division;
  - d) Legal Services Division;
  - e) Finance Division; and
  - f) Corporate Affairs Division.
- 2.23 The Executive Group would be responsible for providing regular updates to the board on their areas of responsibility.
- 2.24 The following paragraphs provide a brief overview of the envisaged core operational activities and responsibilities of each Division. In addition, we have proposed suggested staffing levels in each Division.
- Licensing Division – (approximately 20 employees<sup>13</sup>)*
- 2.25 The Licensing Division would be responsible for dealing with all aspects of the application for, and issuing of, the various licences permitted by legislation. As part of the application process, it would be responsible for assessing the suitability of potential operators to offer gambling services, having regard to the licensing objectives set out in legislation. In addition, it would be responsible for determining what conditions should apply to a licence on issue.
- 2.26 The Head of Licensing would be responsible for overall performance of the Division. Reporting to the Head of Licensing would be the heads of the Sections/Units dealing with the different types of licences to be issued, for example:
- a) B2C Betting Licensing;
  - b) B2C Gaming Licensing; and
  - c) Non-Commercial Licensing.
- 2.27 In terms of the number of personnel required, we would envisage that the Licensing Division would be one of the larger divisions in the regulatory authority. By way of comparison with the UKGC, according to its latest annual report, 103 of the UKGC’s 360 staff members work in licensing and compliance. From our meeting with the UKGC, we understand that approximately 65 of its now 360 staff members (just over 18%) work in licensing. The MGA has a staffing level of approximately 25 staff (just over 15%) in its equivalent licensing division.
- 2.28 In our recommended structure, we envisage the Licensing Division would require staffing of approximately 20 persons. This is comparable with the level of staffing that currently exists in the equivalent division of the MGA (approximately 25).

---

<sup>13</sup> As stated above, it is likely that a larger licensing team may be required Day 1 to deal with the task of licensing the industry. Once licences have been issued and, assuming that there is a long enough period between when licences need to be renewed, it is possible to then redeploy some of these staff members to other functions. Accordingly, our estimate of 20 employees in the Licensing Division may be subject to fluctuation from time to time.

*Compliance Division – (approximately 25 employees)*

- 2.29 Similar to the compliance divisions of the UKGC and the MGA, we envisage that the Compliance Division of the new Irish regulatory authority would be responsible for:
- a) overseeing licensed operators' activities to ensure compliance with the conditions of their licence and the relevant codes of practice;
  - b) carrying out investigations;
  - c) addressing player complaints;
  - d) handling self-exclusion issues; and
  - e) overseeing consumer protection matters.
- 2.30 Ultimately, the bulk of the Compliance Division's resources would, in our view, be dedicated to ensuring adherence to the stipulated licence conditions, through compliance and monitoring activities, audits and on-site inspections and investigations, where appropriate. It would develop an annual compliance review plan for licensees.
- 2.31 Should the Compliance Division discover issues of non-compliance by operators, we envisage that, subject to any legal constraints and the advice from the Attorney General, similar to the compliance division in the UKGC, it might have the power to impose appropriate administrative sanctions on operators. However, if the breach is significantly serious, it may decide to refer the matter to the Enforcement and Intelligence Department.
- 2.32 In addition to monitoring compliance by operators with licensing conditions, codes of practice, consumer protection measures etc., we envisage that the Compliance Division would also be responsible for addressing complaints from players, similar in nature to the Player Support Unit of the MGA. The Compliance Division would assist and facilitate resolutions of complaints and disputes between players and licensed operators. As recommended by the Working Group, the independent regulatory authority would assume the role of competent authority for ADR issues relating to gambling and develop an ADR mechanism to resolve disputes between operators and customers. The Compliance Division would take the lead on this.
- 2.33 The Head of Compliance would be responsible for overall performance of the Compliance Division. A Head of Investigations and Head of Player Support Unit would report to the Head of Compliance.
- 2.34 The Head of Investigations would be supported by a team of 16 compliance officers who would be responsible for investigating all aspects of operator compliance with licensing requirements.
- 2.35 The Head of Player Support would be supported by a team of 6 administrators who would be responsible for dealing with;
- a) player complaints; and
  - b) consumer protection matters.
- 2.36 We propose a total staff of 25 in the Compliance Division. Again, by way of comparison with the UKGC, we understand that approximately 40 of its now 360 staff members (just over 11%) work in the Compliance Division. In the MGA, we understand that there are approximately 16 employees (of 177) (just over 9%) working in the Compliance Division. However, given the broad responsibilities attributed to the Compliance Division, and the critical role this Division

will play in protecting consumers, we believe that it is appropriate to allocate a slightly higher percentage of staff to this area.

*Enforcement and Intelligence Division (approximately 20 employees)*

- 2.37 We envisage that the Enforcement and Intelligence Division would be divided into two units:
- a) Enforcement Unit; and
  - b) Intelligence Unit.
- 2.38 The Enforcement Unit would be responsible for investigating and taking civil or criminal action for serious instances of wrongdoing. Similar to the position in the UK and Malta, we envisage that there would be significant crossover between the Compliance, Enforcement and Legal Divisions. Given the time consuming and costly nature of taking criminal/civil cases, we envisage that enforcement action would generally only be taken where compliance efforts have failed to bring about the necessary standards or resolution. Alternatively, if the breach in question is so serious as to warrant prosecution, it will go directly to enforcement for the relevant civil/criminal action to be taken.
- 2.39 The Enforcement Unit would be responsible for taking action against unlicensed operators who are seeking to provide gambling services in Ireland.
- 2.40 The Intelligence Unit would comprise of the:
- a) Intelligence Team;
  - b) Anti-Money Laundering Team; and
  - c) Sports Betting Integrity Team.
- 2.41 The Intelligence Team would provide a confidential “ear to the ground” for operators and the members of the public to report details of suspicious gambling activities through confidential telephone lines. Each report would be assessed and considered for action, by either the Enforcement Unit or the Compliance Division. The Intelligence Team would also be the regulatory authority’s main gateway to partner agencies, such as the Gardaí, Revenue, other public bodies, international law enforcement organisations and international regulators. The Intelligence Team would work closely with Gardaí and Revenue, and may have officials from those organisations embedded within the wider Intelligence Unit, or seconded to the Intelligence Unit for a period. The Intelligence Team would be responsible for developing intelligence reports for other units in the regulatory authority around developments in the industry, including issues such as betting integrity, social media lotteries, unlicensed remote operators and money laundering.
- 2.42 The Sports Betting Integrity Team (the “SBIT”) would sit within the Intelligence Unit, and would be responsible for investigating issues to do with betting integrity, such as suspicious betting activity, misuse of inside information and other criminality that could potentially impact upon betting integrity. The SBIT would be responsible for investigating reports of suspicious betting activity received from various sources including betting operators, sports governing bodies, law enforcement and tip offs through the confidential intelligence line. The SBIT would investigate reports received, and would assess whether a referral should be made for action, either by the Enforcement Unit or the Compliance Division. In addition, the SBIT would be responsible for referring matters to overseas agencies and regulators, such as Europol and Interpol, overseas police forces, sports governing bodies and other enforcement agencies. Given the close links between the gambling markets in Ireland and the UK, it is envisaged that

the SBIT would establish and maintain a close working relationship with the UKGC's Sports Betting Intelligence Unit.

- 2.43 The primary purpose of the Anti-Money Laundering (AML) Unit would be to ensure that operators have gambling specific AML policies in place, which are being complied with. In the event of evidence of non-compliance, the matter would be referred to the Enforcement Unit for sanction.
- 2.44 In our organisational structure, we envisage that a Head of Enforcement and Intelligence would be appointed who would be part of the Executive Group. Reporting to the Head of Enforcement and Intelligence would be a:
- a) Enforcement Team Leader; and
  - b) Intelligence Team Leader.
- 2.45 The Enforcement Team Leader would be supported by a team of 5 enforcement officers who would be responsible for all aspects of enforcement. Given that we envisage that the enforcement team would work closely with the Compliance team, it is likely that there would be considerable crossover in terms of their activities. However, for the purposes of this report, we have envisaged that the Enforcement team would primarily be responsible for taking action against unlicensed operators and taking enforcement action for the most serious breaches of gambling regulation only. All other matters would be dealt with by the Compliance Team.
- 2.46 The Intelligence Team Leader would be supported by a team of 12 staff members. Of those staff members, it is envisaged that 3 staff members would work in the AML Unit, 3 staff members would work in the SBIT and 6 staff members would work in the Intelligence Unit.
- 2.47 We propose a total staff of 20 in the Enforcement and Intelligence Division. By way of comparison with the UKGC, 44 of the UKGC's 360 staff members (approximately 12%) work in enforcement and intelligence team.

*Legal Services Division (6 employees)*

- 2.48 The Legal Services Division would provide legal services to the regulatory authority on matters relating to gambling regulation and general legal and regulatory affairs. The team would be responsible for developing guidance notes on areas of policy, licensing applications, and compliance with licensing conditions, and on the interpretation of gambling legislation. The team would also be responsible for attending court hearings and mediation hearings where necessary, and it would liaise with the Policy Unit of the DoJE.
- 2.49 It is envisaged that there would be a Head of Legal Services who would be supported by a team of 5 legal advisors, each of whom would have the appropriate legal qualifications. This is broadly in keeping with the size of the equivalent legal teams in both the UKGC (8 employees) and the MGA (6 employees).

*Finance and IT Division (12 employees)*

- 2.50 We envisage that the Head of Finance would manage two main functions:
- a) Finance Team; and
  - b) IT Team.
- 2.51 It is envisaged that the Finance Team would handle all financial-related matters, including:

- a) managing the licence fees collected from operators and other relevant parties;
- b) managing the fines collected from those that have had them imposed by the regulatory authority (subject to the Attorney General's legal advice)<sup>14</sup> and the funds collected through the Social Fund;
- c) internal audit functions;
- d) preparation of the annual accounts; and
- e) assisting the Licensing Division with carrying out an analysis of operator accounts at the initial licensing stage and at renewal if required.

2.52 In common with the approach taken by the MGA, we believe it would make sense to divide the Finance Team into two separate sections, namely;

- a) Licence Fee Assurance Team - this team would be primarily responsible for the collection and follow-up on compliance contribution dues, licence fees, and other administrative fees charged to licensees, and
- b) Finance Operations - this team would focus on corporate finance, financial accounting, planning and control, compliance, as well as the preparation of management accounts and reporting.

2.53 In respect of the number of personnel required, it is not envisaged that the Finance Division would be one of the larger divisions in the independent regulatory authority. Again, by way of comparison with the UKGC, 12 of 360 staff members (just over 3%) work in finance. Having regard to the above, we envisage that the Head of the Finance would be supported by a staff of 6, split between the Licence Fee Assurance and Finance Operations.

2.54 It is envisaged that the IT Team would handle all technology related requirements of the regulatory authority. Similar to the MGA's ICT and Record Directorate, the IT Team would be primarily responsible for IT security and infrastructure, software development, as well as records management. The team would provide technology and infrastructure planning, hosting and data management and would be responsible for in-house software development, business and software analysis and the quality assurance of software, together with its testing and integration with other systems. The IT Team would also be responsible for document and records management.

*Corporate Affairs (17 employees)*

2.55 It is envisaged that the Corporate Affairs function of the independent regulatory authority would have a broad brief and would handle a wide range of support functions, including:

- a) HR;
- b) Public Relations and Communications;
- c) International Affairs;
- d) Policy Management Team;

---

<sup>14</sup> Further consideration should be given to the issue of the retention of fines imposed by the regulatory authority, in light of the fact that the allocation of funds to specific areas would normally be a matter for the Government through the use of the Central Fund.

- e) Freedom of information requests; and
  - f) Facilities management/health and safety/security.
- 2.56 The authority's sole HR person within the Corporate Affairs function would be responsible for the overall management and development of the human resources function, with a focus on maintaining an employee-oriented, high performance culture, which emphasises quality, productivity, and goal attainment including the on-going training and development of the independent regulatory authority's employees. This person would also have responsibility for managing the protected disclosure process.
- 2.57 The International Affairs Team would be responsible for providing knowledge, expertise and horizon scanning of developments in the global gambling industry and associated risks. It also would be responsible for engaging with regulatory authorities in other international jurisdictions. The team would look to build a wide range of relationships to both help build the understanding of the industry and to collaborate with the industry on challenges and opportunities.
- 2.58 The Policy Management Team would be responsible for work on policy-related issues and would work closely with the Minister, who would retain responsibility for gambling policy in Ireland. The focus of the policy teams is primarily around setting framework and influencing the gambling industry and stakeholders therein. The work of the policy team would include developing strategies to reduce gambling harms. These policies would include development of strategies to strengthen the requirements on operators around customer interaction and age and identify verification. In addition, the unit would seek to develop frameworks to measure the full range of harms associated with gambling to help target prevention measures.
- 2.59 The Public Relations and Communications function would be responsible for all internal and external communications for and on behalf of the independent regulatory authority, in addition to public and media relations. This would include the publication on the authority's website of all relevant publications, including the authority's annual reports and any statistics that should be made publicly available.
- 2.60 It is also envisaged that the Corporate Affairs function would take responsibility for handling freedom of information requests from members of the public. Such requests can be burdensome and the Corporate Affairs function would need to be adequately resourced in order to be in a position to deal with such requests in a timely fashion. Consideration should be given to whether this would require that the authority be designated as a public body and added to the Schedule of such bodies under the Freedom of Information legislation.
- 2.61 The Corporate Affairs function would also have overall responsibility for facilities management, health and safety within the authority's premises, and security, with external contractors also used in this context depending on the location of the premises that is chosen to house the regulatory authority.
- 2.62 Given the broad brief attributed to the Corporate Affairs Division, we envisage that a slightly higher percentage of staff of the independent regulatory authority's staff would be required to work in this Division. Accordingly, it is proposed that approximately 17 staff would work in this area.



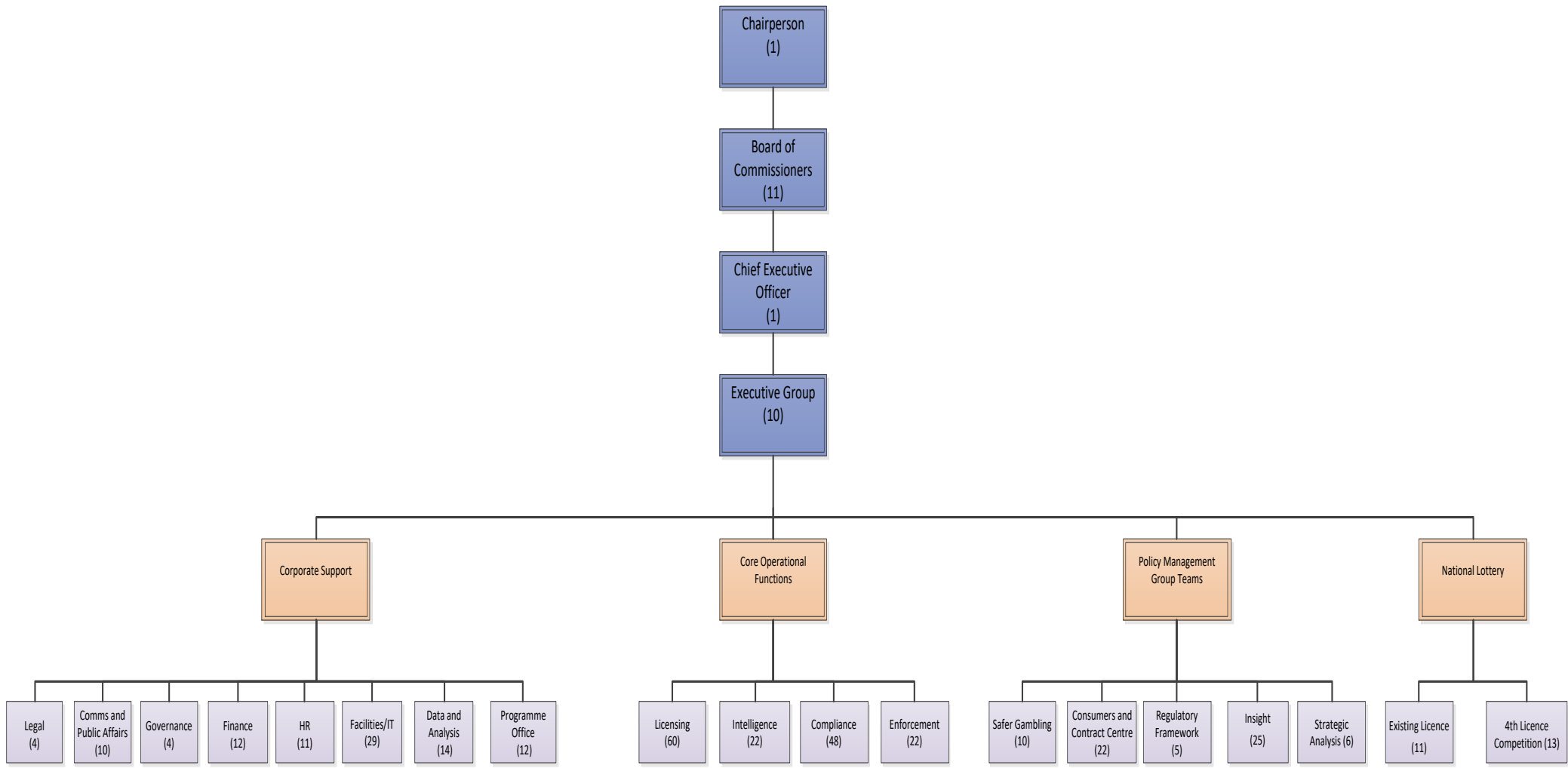
## Part 5

### Estimate of the likely costs and timelines for the establishment of a gambling regulatory authority

1. We set out at Appendix 5 of this Report a high-level overview of the anticipated costs that are likely to be incurred in establishing a regulatory authority of this nature. This analysis is based on the information available as to civil service staffing costs, etc.
2. For the purposes of carrying out a meaningful estimate, we have assumed that the new regulatory authority would have a total staff of circa 102.
3. Based on a total staff of 102 we estimate that the overall costs of the regulatory authority, once operational, would be in the region of €8-9m.
4. We believe that it should be possible to largely cover such costs through licensing fees charged to gambling operators. However, in the initial phases of the establishment and working of the regulatory authority, it will need State support.
5. We estimate that it is likely to take at least two years before a new regulatory authority could become operational. This time frame is largely driven by the recognition that lengthy and complex legislation will need to be drafted and passed by the Oireachtas. In addition to enacting primary legislation, the regulatory authority, once created, will need to draft licensing terms and conditions as well as the detailed policy and guidance notes that will be needed by operators. It will take time to recruit and train staff for the regulatory authority given that, as the Working Group has acknowledged, the bulk of staff are likely to be new hires with little previous experience in the area.
6. Having regard to the attached estimation of costs, we are of the view that there are a number of key considerations that should be noted:
  - a) in order to determine the point at which the regulatory authority might become self-financing, one would need to know the precise level of fees that would be charged for the relevant licences. The Government will need to make a policy decision on the nature of licence fees that it will charge under any new regulatory regime;
  - b) based on our preliminary calculations of potential fees that could be achieved using existing fee structures, we believe it should be possible to ultimately achieve the stated goal for the regulatory authority to be self-financing;
  - c) the estimate of staff costs is based on the current level of civil service remuneration rates, which we have applied to the various potential staffing levels. These rates may vary between employees and, therefore, this would have an effect on our estimation of staff costs. Also it should be noted that it may be possible to hire staff at lower levels and if this is feasible it would result in cost savings;
  - d) it will take a number of years for the regulatory authority to become operational and it will incur costs before going live and in its initial years of operation. By phasing in licensing, and transitioning existing licensing arrangements, it would be possible to ensure that the regulatory authority has the possibility of receiving licence fee income soon after establishment, which it could use to fund its activities;
  - e) a policy decision will be needed from Government as to whether the regulatory authority could set licences fees to operate at a surplus to costs. However, this might lead to allegations of secondary taxation. The UKGC is not permitted to do so;

- f) we have factored into our cost calculations an amount in respect of rental costs on the assumption that the Office of Public Works will not have office space available for the new regulatory authority; and
- g) we have assumed that certain activities of the regulatory authority will be provided by central support functions and shared services of the Department or of the State, e.g. payroll, HR, internal audit. Should it be necessary to engage external providers to deal with any aspects, such as developing an IT portal to handle the proposed online licensing system, this would result in additional costs being incurred, which are not possible to calculate at this point. To take account that certain external help is likely to be needed to establish the authority we have factored in a budget for professional advisory fees. To the extent that less external assistance is required then the cost allocated to professional advisory fees may be less resulting in savings.

**Appendix 1**  
**UK GC Structure Chart**



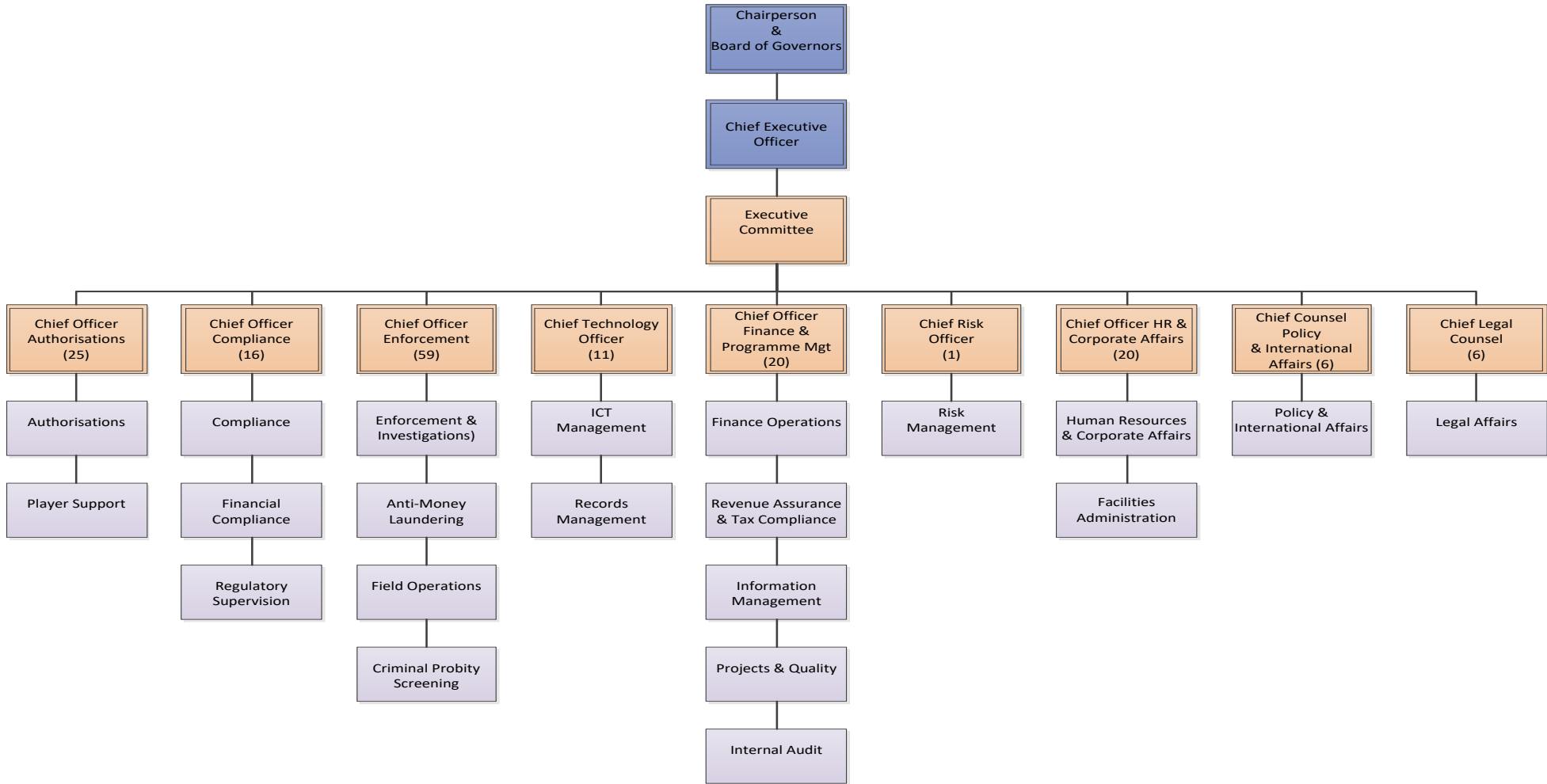
## Appendix 2

### Budget of UK Gambling Commission (UKGC) 2018/2019

<b>UK Gambling Commission</b>	
<b>Annual Report 2018/2019</b>	
<i>Income</i>	<i>£'000s</i>
Application Fees	897
Annual Fees	17,409
Personal Licence Applications	829
Miscellaneous	525
Grant-in-aid National Lottery	6,721
<b>Total Income</b>	<b>26,381</b>
<i>Expenditure</i>	<i>£'000s</i>
Staff Costs (including recruitment)	19,013
Accommodation	1,454
Professional Fees	2,983
Travelling and Subsistence	615
Hospitality	16
Office Services	1,527
Audit Fees	199
Amounts payable to Criminal Records Bureau	83
Research Costs	795
Other Expenditure	279
<b>Total Expenditure</b>	<b>26,964</b>
<b>Deficit</b>	<b>(583)</b>

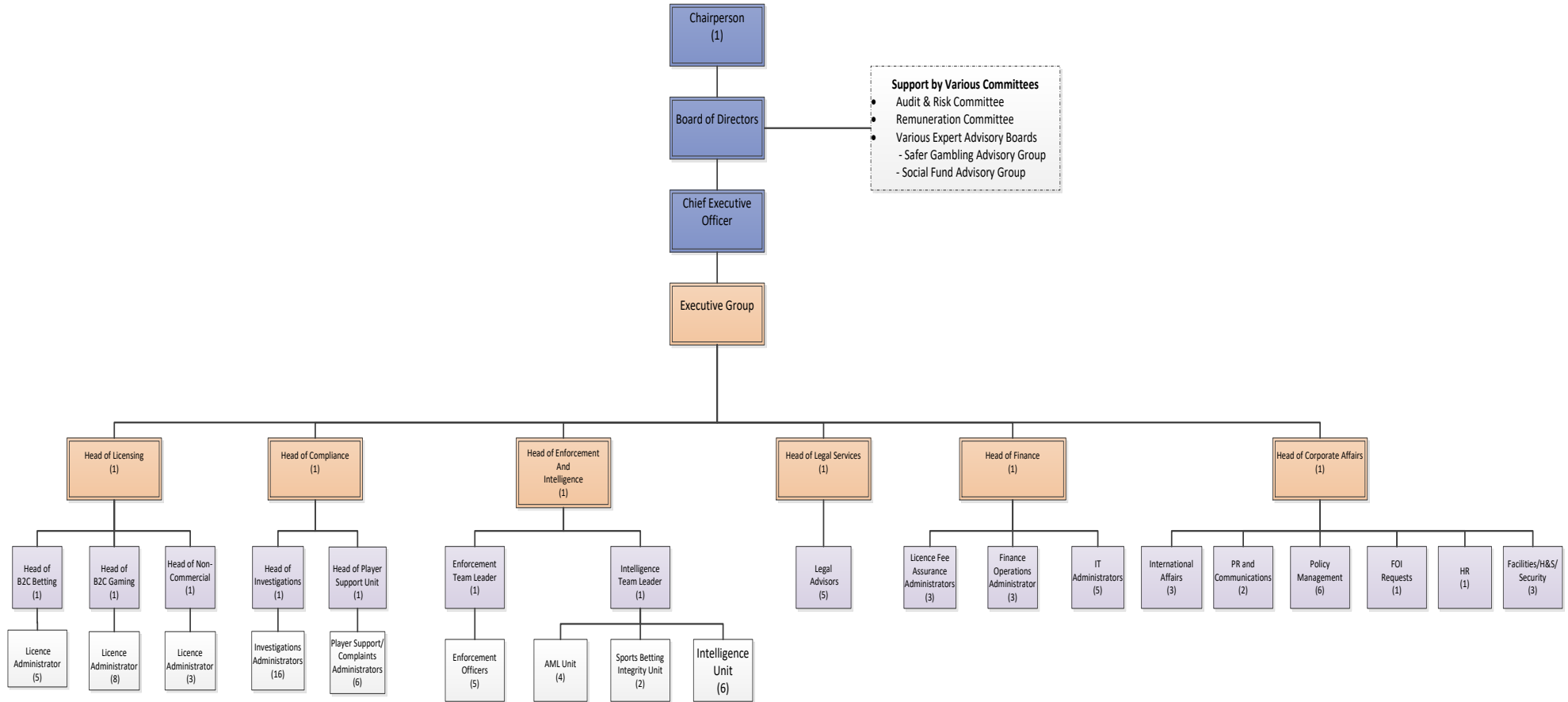
### Appendix 3

## Organisational structure of the Malta Gaming Authority (MGA)



## Appendix 4

### Proposed organisational structure of the Irish gambling regulatory authority



## Appendix 5

### Estimated Costs of Irish Gambling Regulatory Authority

Source Notes	Projected Costs	Number of Employees Once Fully Operational	Estimated Salary	Employers PRSI	Total	Source Note	Projected Expenditure - NB Assumes Phased Approach To Staffing 2021	Projected Expenditure - NB Assumes Phased Approach To Staffing 2022	Projected Expenditure NB Assumes Fully Operational 2023
<b>Staff Costs</b>									
	Chief Executive - Assistant Secretary Level	1	€145,973	€15,692	€161,665	1	€161,665	€161,665	€161,665
	Executive Group - Principal Officer Higher Level	6	€101,311	€10,891	€112,202	2	€673,212	€673,212	€673,212
	Heads of Units - Assistant Principal Higher Level	25	€82,234	€8,840	€91,074	3	€1,639,335	€1,821,483	€2,276,854
	Administrative Officer - Higher Scale	30	€54,458	€5,854	€60,312	4	€904,683.53	€1,206,244.70	€1,809,367.05
	Clerical Officer	40	€39,796	€4,278	€44,074	5	€881,481.40	€1,322,222.10	€1,762,962.80
	<b>Total Estimated Staff Costs</b>						<b>€3,378,895</b>	<b>€3,862,604</b>	<b>€4,921,098</b>
<b>Other Expenditure</b>									
	Property Rental Costs					6	€500,000	€500,000	€500,000
	Telecommunication costs					7	€30,000	€50,000	€80,000
	Professional Advisory Fees					8	€1,500,000	€1,500,000	€1,500,000
	Legal Fees - Legal Proceedings					9			€750,000
	Marketing & Media Expenses to Build Awareness					10	€100,000	€100,000	€100,000
	Travel, Accommodation & Subsistence costs.					11	€50,000	€100,000	€150,000
	Misc Other Costs & Expenses.					12	€200,000	€250,000	€300,000
	<b>Total Expenditure</b>						<b>€5,758,895</b>	<b>€6,362,604</b>	<b>€8,301,098</b>
1	Assumed salary of the Chief Executive would be equivalent to Assistant Secretary Level. For purposes of our estimates we have taken the mid point of the pay scale for Assistant Secretary per civil service pay scales : <a href="https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/">https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/</a>								
2	We have assumed the mid point of the higher rate of salary for principal officers based on the civil service pay scales : <a href="https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/">https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/</a>								
3	We have assumed the mid point of the higher rate of salary for assistant principal officers based on the civil service pay scales : <a href="https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/">https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/</a>								
4	We have assumed the mid point of the higher rate of salary for administrative officers based on the civil service pay scales : <a href="https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/">https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/</a>								
5	Assume the higher rate of salary for clerical officers: <a href="https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/">https://www.forsa.ie/about-forsa/divisions/civil-service/civil-service-pay-scales/</a> . It maybe that some roles may be filled at rates below Clerical Officer resulting in savings but we have assumed for purposes of estimates that all roles at Clerical Officer level.								
6	For the purposes of our estimation of costs we have assumed that the Office of Public Works will not have available office space. Allowing for 100 square feet per person for 100 people we estimate an office space of circa 10,000 square feet would be required. We have estimated rents at circa €50 per square foot. This may be lower depending on location of property. Rent is exclusive of VAT which may be additional.								
7	Assumption based on telecommunications costs per DPC Annual Report for 31/12/2017.								
8	The establishment of a new regulatory body is likely to give rise to a requirement to engage professional advisors. We have therefore budgeted for annual advisory fees in the region of €1M to cover business advisory services, general legal services, IT platform development costs. UKGC incurred €3M in professional fees in 2018/2019.								
9	Once the Regulatory authority commences to undertake enforcement action it is likely that it will incur legal costs in instigating civil or legal proceedings. A budget should therefore be included from 2023. Legal costs incurred as part of Compliance settlements would be factored into any settlements agreed through mutually agreed settlements. If the Regulatory Authority is not in a position to impose administrative sanctions a greater budget may need to be allocated for enforcement actions taken through courts.								
10	The creation of a regulatory body will result in a requirement to raise awareness. Similar to when GDPR went live a budget should be factored in for the initial years to deal with such costs. We have therefore estimated an annual budget of €100,000 for initial years similar to DPC. Estimate is based on business advisor fees incurred by DPC in lead to implementation of GDPR (See Note 7 of Notes to Annual Accounts to 24 May 2018.								
11	Estimate based on UK GC expenditure in FY 19 of circa €600k. Expenses of Irish regulator should not be as large but a budget should be factored in as most online operators are overseas and travel may be required for meeting regulators.								
12	For prudence we have built in an additional provision of circa €250k per annum to deal with other costs that are likely to be incurred such as on research, periodicals, attending at seminars								



**Alan Heuston**  
*Partner, Tax*  
+353 1 607 1472  
alan.heuston@  
mccannfitzgerald.com

---

Alan Heuston is a partner in McCann FitzGerald's tax group, about which Chambers Europe recently noted, 'They are accessible, technically strong and commercial with their solutions.' Alan has extensive experience in advising clients on the tax aspects of mergers and acquisitions, reorganisations, restructurings, migrations, capital markets, financial products, banking, and a wide range of other international and domestic tax matters. He maintains a particular focus in the area of intellectual property and has advised a wide range of domestic and

international clients on the tax aspects of setting up operations in Ireland to exploit and develop intellectual property. Alan leads the firm's betting and gaming group and has significant first-hand experience of the regulatory and taxation aspects of the betting and gaming sector. Alan writes and lectures on all topics relating to his practice and is a frequent contributor to client briefings, including recent publications on licensing and advertising issues as they arise in the betting and gaming sector.



**Sean Dowling**  
*Senior Associate,  
Corporate*  
+353 1 607 1202  
sean.dowling@  
mccannfitzgerald.com

---

Sean is a senior associate in McCann FitzGerald's corporate group and advises indigenous and multinational corporates in relation to company law matters, including mergers and acquisitions, contractual drafting and negotiation, private equity transactions, corporate reorganisations, joint ventures, and general Irish company law and corporate governance issues.

Sean is a member of the firm's betting and gaming group and maintains an overview of legal and regulatory developments in the betting and gaming sector. With others in the group, Sean has co-written client briefings on relevant topics including the Gambling Control Bill 2013 and an update on the implications of the expiry of remote bookmaker and remote betting intermediary licences.





---

**Principal Office**

Riverside One, Sir John Rogerson's Quay  
Dublin 2 D02 X576  
+353 1 829 0000

**London**

Tower 42, Level 38C, 25 Old Broad Street  
London EC2N 1HQ  
+44 20 7621 1000

---

**New York**

Tower 45, 120 West 45th Street, 19th Floor  
New York, NY 10036  
+1 646 952 6001

**Brussels**

40 Square de Meeûs, 1000 Brussels  
+32 2 740 0370