



Institute of Licensing
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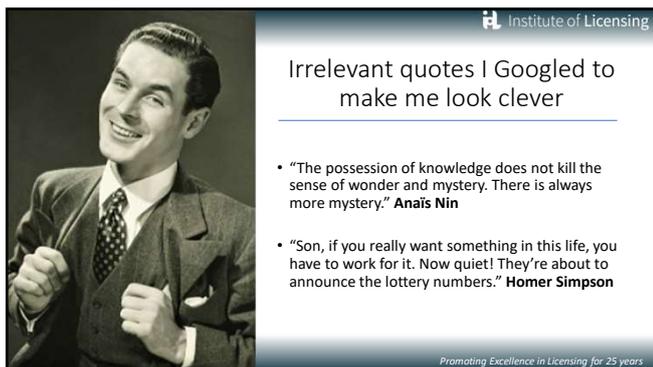
Lotteries, local authorities and the law: *In plain English*

Jane Blade, Gambling Commission

GAMBLING COMMISSION

Promoting Excellence in Licensing for 25 Years

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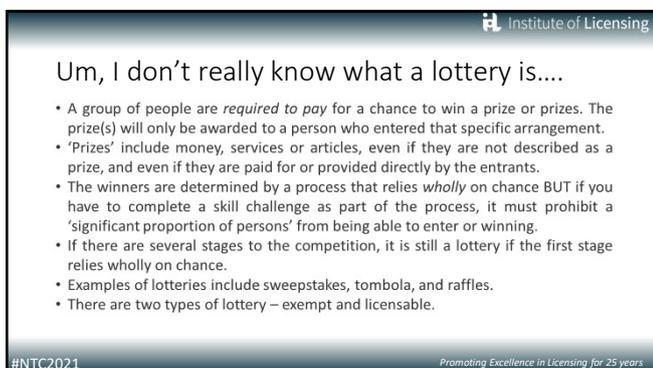


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Irrelevant quotes I Googled to make me look clever

- “The possession of knowledge does not kill the sense of wonder and mystery. There is always more mystery.” **Anais Nin**
- “Son, if you really want something in this life, you have to work for it. Now quiet! They’re about to announce the lottery numbers.” **Homer Simpson**

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Um, I don't really know what a lottery is...

- A group of people are *required to pay* for a chance to win a prize or prizes. The prize(s) will only be awarded to a person who entered that specific arrangement.
- ‘Prizes’ include money, services or articles, even if they are not described as a prize, and even if they are paid for or provided directly by the entrants.
- The winners are determined by a process that relies *wholly* on chance BUT if you have to complete a skill challenge as part of the process, it must prohibit a ‘significant proportion of persons’ from being able to enter or winning.
- If there are several stages to the competition, it is still a lottery if the first stage relies wholly on chance.
- Examples of lotteries include sweepstakes, tombola, and raffles.
- There are two types of lottery – exempt and licensable.

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Exempt Lotteries

- Customer lotteries
- Incidental lotteries
- Private lotteries
- Small society lotteries

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Small society lotteries

- A 'society' is any society established for non-commercial purposes, i.e. not for private gain. It includes enabling participation in, or supporting, sport, athletics or cultural activity; religious purposes; human rights; environmentalism; animal welfare and armed forces charities amongst others. See s.2 of the Charities Act 2006 for further details.
- If a society holds draws where the proceeds are unlikely to exceed £20K per draw, and the total proceeds from all draws are less than £250K in a calendar year, they can provide these under a registration with the local authority instead of being licensed by the Gambling Commission.
- Lotteries exceeding these amounts are licensed by the Gambling Commission, but are still the preserve of charities and good causes.

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Customer Lottery

- Can be run by a business for customers on the business premises (not online or by text).
- Entrants must be aged 16 or over.
- The lottery can only be advertised on the premises (not online), and no advert can be sent to other premises.
- Every ticket must cost the same.
- No person can win a prize worth more than £50.
- No profit can be made from the sale of the tickets.
- No rollovers are permitted.
- Tickets must not be transferable, and must be voided if there is an attempt to transfer.
- There can be no more than one draw in any seven day period.
- Tickets MUST be a document stating the name and address of the promoter, who they will sell tickets to, the price, and that tickets are not transferable.

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Incidental Lotteries

- An incidental lottery is held at an event and the event must not be held for the primary purpose of providing a lottery.
- The draw must be for a non-commercial purpose and not for private gain.
- No more than £100 can be for expenses associated with the lottery.
- No more than £500 can be deducted for prizes (although unlimited prizes can be donated).
- There can be no rollovers.
- Tickets can only be sold at the location during the event.
- The draw can be at the event, or after.
- You CAN sell tickets to children.
- There is no limit on ticket prices, and tickets do not have to be the same price (this would allow offers such as 'get 12 tickets for the price of 10').

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Private lotteries – Work Lottery

- The promoter must be somebody who works on the same single set of premises as the people they are selling tickets to. Tickets cannot be sold to people at multiple sites.
- No profit can be made from the lottery, OR the lottery can only be promoted for a purpose other than private gain (e.g. to raise funds for a charity). Costs can be deducted for expenses such as prizes and ticket printing.
- The lottery can only be advertised on the premises, not online or sent to other premises.
- Tickets must be provided and they cannot be transferable.
- Each ticket must cost the same.
- Tickets must be paid for BEFORE they are issued.
- There can be no rollovers.
- There are no age restrictions, but the tickets can only be sold to people who work on the premises.

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Private Lotteries – Residents Lottery

- The promoter must be somebody who lives in the same single set of premises as the people they are selling tickets to, for example sheltered accommodation, a care home, a house divided into flats, or halls of residence.
- No profit can be made from the lottery, OR the lottery can only be promoted for a purpose other than private gain (e.g. to raise funds for a charity). Costs can be deducted for expenses such as prizes and ticket printing.
- The lottery can only be advertised on the premises, not online or sent to other premises.
- Tickets must be provided and they cannot be transferable.
- Each ticket must cost the same.
- Tickets must be paid for BEFORE they are issued.
- There can be no rollovers.
- There are no age restrictions on who can buy tickets.

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Private lotteries – Private Society Lottery

- A private society is a club established for any purpose other than gambling.
- The promoter must be a member of the society authorised in writing by the society or its governing body to sell lottery tickets.
- Tickets can only be sold to other members of the same society OR persons who are on premises wholly or mainly used by the society for the administration of its affairs.
- If the society has branches or sections, these rules apply to a single branch or section of the society only.
- No profit can be made from the lottery. Money raised can be retained for the purposes of the society, OR the lottery can be promoted for a purpose other than private gain (e.g. to raise funds for a charity). Lottery expenses can be deducted for things like prizes and ticket printing.
- The lottery can only be advertised on the premises, not online or sent to other premises.
- Tickets must be provided and they cannot be transferable.
- Each ticket must cost the same, and tickets must be paid for BEFORE they are issued.
- There can be no rollovers.
- There are no age restrictions on who can buy tickets.

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It looks like a lottery, but it isn't...

- If an element of skill is required to be eligible to win a prize, the product is not a lottery.
- A draw is not a lottery if it is possible to enter for free (even if there is both a paid route and a free route).
- If a skill question AND a free entry route are provided, only one has to be fully compliant.
- However, there are caveats to this...

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Skill Questions

Section 14(5)
GA05: a process which requires persons to exercise skill or judgment or to display knowledge shall be treated for the purposes of this section as relying wholly on chance if—

- the requirement cannot reasonably be expected to prevent a significant proportion of persons who participate in the arrangement of which the process forms part from receiving a prize, and
- the requirement cannot reasonably be expected to prevent a significant proportion of persons who wish to participate in that arrangement from doing so.

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The trouble with skill questions

- There is no case law defining 'a significant proportion of persons'.
- There is no case law or what 'reasonably be expected to prevent...' means.
- What if you can easily Google the answer?
- What if the question is multiple choice and you can keep guessing until you get the answer correct?
- What if the site tells you when the answer is incorrect?
- What if the draw is for people who are generally going to understand the subject, e.g. the prize is a tractor and the question is about farming?
- What if the question is a sum and you can use a calculator?
- What if the answer relates to the prize, e.g. 'Who makes the Air Wrap?' and the prize is described as a 'Dyson Airwrap'?
- What if you can enter even if you get the answer wrong?

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Is this compliant?

1
Competition
Question

2
Contact
Details

3
T's & C's

Competition Entry Question

10 people are climbing Mount Kilimanjaro. At the start of the day, each person is carrying an identical bag that weighs 4kg. They all stop for lunch. After lunch, half of the people have reduced the weight of their bags by 50%.

What is the total weight of all the bags combined, after lunch?

SELECT YOUR ANSWER BELOW:

20KG
 25KG
 30KG

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Skill questions – the Commission's view

In our view, the following would not be compliant:

- Asking simple or widely known answers to questions.
- Asking multiple choice questions but allowing the consumer to keep guessing the answer, or enter multiple times using each different answer.
- Asking questions where the answer can be easily found using a search engine.
- Asking questions where the answer is provided on the website, such as asking who makes the product being offered as a prize.
- Generally, it is difficult to demonstrate a skill question passes the test in Section 14(5) of the GA05.

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Free entry

- Schedule 2 GA05 defines 'payment to enter'.
- The free entry route can be by First or Second-Class post (not Recorded or Special Delivery) OR another method such as text, email, or telephone.
- Telephone or text entries must be charged at the 'normal rate', which excludes the use of Premium Rate phone lines or SMS messages that incur charges above the usual cost.
- The free entry route cannot be less convenient than using the paid route.
- The free entry route must be advertised as prominently as the paid route.
- The system for allocating prizes must be the same for paid and free entries.
- The free entry route must be likely to come to the attention of every person who proposes to participate.

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Free entry – problem areas

- What does 'the system for allocating prizes' mean?
- What does 'likely to come to the attention of each individual who proposes to participate' mean?
- What if the free entry route is advertised in a smaller font than the paid route?
- What if the free entry route is on a different part of the page to the paid route?
- What if the draw is only live for 24 hours but the free entry route is postal?

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Is this compliant?

£2.75 PER ENTRY

OFFER

**BUY 5 OR MORE TICKETS
AND GET THEM FOR JUST
£1.75p**

What is the Highest Value?

20 2000 200

Click here for details about our free postal entry route.

- 5 +

Bulk deal	
Quantity	Fixed price
5+	£1.75

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Free entry – the Commission’s view

- The free entry route can be by First or Second-Class post OR another method such as text, email, or telephone. You cannot ask people to use Special or Recorded Delivery for postal entry. Any free entry method must be charged at the ‘normal rate’ – no Premium Rate phone lines or text messages that cost more than the usual cost of sending a text.
- People entering free of charge cannot be required to do something those who are paying do not have to do. For example, you cannot ask people entering by post to send proof of address unless you also ask paying entrants to do the same.
- People should be able to see the free entry option before they pay for a ticket without knowing it was there in advance.
- Draws must be live for long enough for people to enter by post, if free entries are accepted this way. This means there must be time for people to send an entry by First or Second-class post, for it to arrive, and for the entry to be processed.
- A draw cannot close once paid tickets are sold if this means postal entries cannot be processed.

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House Raffles

- House raffles are no different in terms of GA05 principles to any other raffle.
- If a compliant free entry route is offered, the raffle is not a lottery for the purposes of the GA05.
- If a compliant skill question has to be answered, the raffle is not a lottery for the purposes of the GA05.
- There may be other areas of concern outside the GA05, such as marketing and advertising rules or breaches of Trading Standards legislation.

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Exercise: Is This Legal?

- Every person to like and share a hair salon’s Facebook page is entered into a draw to win a cut and blow dry.
- A pub runs a raffle to win a turkey worth £45 for Christmas. They put a poster up in the pub advertising the draw. Tickets are £1 each. They are keeping the money raised to help the pub recover financially from lockdown.
- A working men’s club is selling raffle tickets to raise funds to refurbish the club hall. Tickets are £2 each and the prize is a Shark cordless vacuum cleaner. There is a poster up in the premises advertising the draw. A member holds a private party at the club and some of the guests, who are not club members, buy tickets for the raffle at the party.

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Illegal lotteries – what to do

- Notify the Commission if a society lottery is exceeding its limits (remember to notify the society as well).
- You can prosecute a society under s.262 GA05 for not providing lottery returns, or under s.261 for misusing the profits of an exempt lottery.
- Revoke the registration of a small society if: they are no longer a non-commercial society; if a person connected with the promotion of the lottery has been convicted of a relevant offence (Sch 7 GA05); or if information provided in, or with, the application, is false or misleading.
- If a lottery is being run from premises in your district and is illegal, we usually expect the LA to investigate and take action.
- You can email the details of other illegal lotteries to intelligencereports@gamblingcommission.gov.uk. We cannot investigate every case, but your referral will be triaged and actioned in accordance with our priorities.

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Lottery Offences

- S.56 – Inviting, causing, or permitting a child (under 16) to participate in a lottery. This offence does not apply to incidental lotteries, private lotteries, or the National Lottery (which is covered by other legislation). There is a defence to this under s.63.
- S.258 – Promoting a non-exempt lottery without a licence.
- S.259 – Facilitating a non-exempt lottery without a licence.
- S.260 – Misusing the proceeds of a non-commercial lottery.
- S.261 – Misusing the proceeds of a private lottery, incidental lottery, or small society lottery.
- S.262 – Promoting a lottery purported to be a small society lottery without holding a small society lottery registration.
- S.262 – Failing to provide small society lottery returns in the manner prescribed in Paragraph 39 of Part 4 Schedule 11.
- S.262 – Providing false or misleading information in lottery returns.

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Any Questions?



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Jane Blade, Compliance Manager
Gambling Commission

LA advice requests: compliance@gamblingcommission.gov.uk
Illegal activity reports: intelligence@gamblingcommission.gov.uk
Copies of licence applications, policy consultations etc: info@gamblingcommission.gov.uk

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