

Class 4 Key Persons and Suitability

The Gambling Act 2003 aims to limit opportunities for crime or dishonesty associated with gambling and ensure that money from gambling benefits the community.

The Gambling Act sets out strict suitability requirements on key persons who are involved in the operation of gaming machines and the distribution of funds generated by gaming machines.

When applying for a Class 4 gambling licence, corporate societies are therefore required to identify key persons to enable:

- Suitability checks
- Identification of any conflict of interest between a Class 4 operator and venue key person
- The Department of Internal Affairs to ensure that key persons are prohibited from seeking, receiving or offering benefits in defined cases (section 118).

Key persons

Section 4 of the Gambling Act defines key persons as:

- In relation to Class 4 operator's licences (i.e. gaming machine corporate societies):
 - Trustees and officers of a corporate society
 - Chief executives of societies, or persons performing the function of a chief executive
 - Anyone who exercises a significant influence in the management of a corporate society that is an applicant for, or holder of, a Class 4 operator's licence.
- In relation to a Class 4 venue licence:
 - Venue managers
 - Venue personnel (in general the Department will only check non-management venue personnel when there is evidence suggesting it should do so)
 - Venue operators
 - Directors, chief executives, and senior managers of venue operators
 - Anyone who the Department reasonably believes has a significant interest in the management, ownership, or operation of a venue operator except for the following persons holding office, elected, or appointed under the Sale of Liquor Act 1989:
 - a. a member of a licensing trust elected or appointed under specified sections of that Act; or

- b. a trustee of a community trust holding office, elected or appointed under specified sections of that Act.
- Persons contracted to service gambling equipment at gaming machine venues.
- Significant interest includes, but is not limited to:
 - A financial or ownership interest in the business operating at the venue, or the venue premises (e.g. a significant shareholder of the venue operator business)
 - The power to make decisions that would normally be made by the directors, chief executive or senior management of the venue operator
 - Undertaking or being responsible for duties that are normally the responsibility of the venue manager (e.g. being responsible for the timely banking of gaming machine profit)
 - The power to appoint trustees, officers or senior management, or to alter the society's constitution.

Whether a person is, or is not, a key person in any given situation will be dependent on the facts of the case, and the Department cannot make blanket rules on this issue.

Where applicable, all key persons must be listed on an application to renew, amend or apply for a Class 4 operator or venue licence.

Suitability checks

Sections 51 and 66 enable the Department to investigate and determine whether the applicant and associated key persons are suitable to operate gaming machines.

Certain key persons must also complete a personal information form (e.g. officers of the corporate society applicant, the venue manager and the venue operator).

The Department must be notified of any changes to key persons by a licence holder. New key persons must complete a personal information form. This form allows the Department to undertake a number of internal and external suitability checks about the key person.

Suitability checking may include making inquiries with various other agencies (this may include but is not limited to) searches of databases such as the:

- Department of Internal Affairs' intelligence databases
- Baynet database
- Work and Income New Zealand database
- Companies Office database
- New Zealand Insolvency and Trustee Service database
- Ministry of Justice (Wanganui computer) database.

Information gathered will enable the Department to evaluate whether a key person is suitable to be involved in the operation of gaming machines. The Department's primary concern is whether a key person has been involved in criminal or dishonest activity.

When the Department requests personal information it will explain the purposes for which it is requested and that the information may be disclosed to other agencies for the purposes of suitability checking.

These forms and other information on key persons can be found on the Department's website: www.dia.govt.nz