Class 4 Gambling Consultation:

Best Practice (Three Year) Licence

Department of Internal Affairs

Te Tari Taiwhenua

7 April – 19 May 2017



Table of Contents

[1. What is this document about? 4](#_Toc479253021)

[Who is this document for? 4](#_Toc479253022)

[How does licensing work under the Act? 5](#_Toc479253023)

[The society or club is the licence holder 5](#_Toc479253024)

[How will providing your feedback help? 6](#_Toc479253025)

[Relevant legislation 6](#_Toc479253026)

[Sending us your submission 7](#_Toc479253027)

[2. What is best practice? 8](#_Toc479253028)

[What does best practice mean? 8](#_Toc479253029)

[What are the outcomes we want from best practice? 9](#_Toc479253030)

[What is the performance expectations framework? 9](#_Toc479253031)

[What might we expect to see as examples of best practice? 10](#_Toc479253032)

[3. Why best practice? 11](#_Toc479253033)

[Why does the Department want to focus on best practice? 11](#_Toc479253034)

[What are the potential benefits of a best practice licence? 11](#_Toc479253035)

[4. Assessing best practice 12](#_Toc479253036)

[Applicants submit a self-assessment 12](#_Toc479253037)

[What is the rating scale for a best practice licence? 13](#_Toc479253038)

[How do we assess whether a licence holder is operating well enough to be granted a best practice licence? 14](#_Toc479253039)

[5. How will a best practice licence work? 17](#_Toc479253040)

[Proposed design for the Department to decide a best practice licence 17](#_Toc479253041)

[The current fees regulations will apply until the upcoming fees review is completed 18](#_Toc479253042)

[6. What happens next? 20](#_Toc479253043)

[Support for societies and clubs 20](#_Toc479253044)

[Operational Implications for the Department 20](#_Toc479253045)

[We will test the performance expectations framework in a compliance audit 21](#_Toc479253046)

[7. How did we develop the proposal for a best practice Licence? 22](#_Toc479253047)

[We worked with the Class 4 Gambling sector 22](#_Toc479253048)

[Consultation requirements 23](#_Toc479253049)

[Fit with Class 4 Gambling Review 23](#_Toc479253050)

[We considered a number of options for the performance expectations framework 23](#_Toc479253051)

[8. Questions for submitters 24](#_Toc479253052)

[9. Appendices 26](#_Toc479253053)

[Appendix 1: Performance Expectation Framework 26](#_Toc479253054)

[Appendix 2: Practice Examples 29](#_Toc479253055)

[Appendix 3: Outcomes Framework 37](#_Toc479253056)

[Appendix 4: Rating scale (PIF) 38](#_Toc479253057)

[Appendix 5: Assessment Methods 39](#_Toc479253058)

[Appendix 6: Design options 47](#_Toc479253059)

[Appendix 7: Sector Technical Reference Group – Terms of Reference 50](#_Toc479253060)

# What is this document about?

The Department of Internal Affairs (the Department) is developing its operational policy to assess applications from Class 4 licence holders (which are societies and clubs) for a best practice licence, which would be given for three years. This document invites your comments on the proposed approach to societies and clubs that choose to apply for a best practice licence, how the application is made and how the Department would decide on the application based on the evidence provided by the society or club.

In 2015, an amendment was made to the Gambling Act 2003 (the Act) that allows a Class 4 licence to be granted for a period of up to three years. The Commentary for the Gambling Amendment Bill (No 3) sets out that “the intention is that longer licences should act as an incentive for best practice and compliance among societies and venues.”[[1]](#footnote-2)

The aim of this proposal is to improve performance and reduce compliance costs. On this basis, the Department is designing a three year licence process that aims to reward societies and clubs that are demonstrating best practice. Best practice means going above and beyond the compliance requirements set in legislation. The Department has designed the best practice licence to be inclusive so that it can be used by small, medium and large societies as well as clubs. Individual societies and clubs will have unique solutions and practices to meet the expected outcomes. The best practice licence should be flexible enough to accommodate the diversity of licence holders and how they operate.

It is voluntary for licence holders to apply for a three year licence – they may choose not to, and instead continue to apply annually to have their licence renewed. Applicants must meet all legislative requirements for an annual licence under the Act before being considered for a three year licence. These legislative requirements would continue to be reassessed at every licence renewal.

## Who is this document for?

We invite submissions on the proposal set out in this document. You may find it of particular relevance to you if you are:

* a Class 4 society;
* a Class 4 club;
* a Class 4 venue;
* a problem gambling service provider;
* a community organisation that applies for, or might apply for, gaming machine grants; or
* affected by gambling harm.

## How does licensing work under the Act?

The Department is responsible for regulating the gambling sector in New Zealand. Corporate societies and clubs are licensed by the Department to operate pokie machines in clubs or in commercial venues (pubs and bars). Gambling on gaming machines hosted in pubs, hotels and clubs is referred to as Class 4 gambling. Class 4 gambling does not include casinos.

### The society or club is the licence holder

Under the Act, it is the Class 4 operator (i.e. the society or club) that is the licence holder and is ultimately responsible for ensuring that its venues meet their obligations in relation to Class 4 gambling. The proposed best practice licence sets out a complete picture of the Department’s performance expectations. It is focused on supporting clubs and societies to assess their own performance and identify what should change to improve. Societies are expected to performance manage their venues, including monitoring venues and improving venue performance.

All societies and clubs that have a best practice licence would also have all of their venues licensed for three years. The society or club holds, applies and pays for the venue licence, therefore, the club or the society is the licence holder, not the venue. It is not legally or practically feasible to have different licence lengths for a society and the venues it is responsible for.

Because the society or club is the licence holder, the best practice licence is focused on the society’s performance including assessing how it works with its venues, and how the society influences and supports venue staff to meet their obligations in terms of harm minimisation and other gambling processes. A society or club that is recognised as best practice should have open relationships with its venues and robust systems in place to support its venues’ compliance.

The Department will continue to assess venue performance independently from the responsible society. The Department is currently reviewing how it applies regulatory resource to venues. The Department will continue to identify risk areas and inspect venues – even if those venues belong to a society holding a best practice licence. If the Department has concerns about a particular venue, the Department has a range of regulatory options available, including licence suspension, cancellation or refusing to renew the venue licence.

**Question 1:** *Are you a venue operator or manager? The Department is interested in hearing from venue operators and managers about their interest in the best practice licence and what it means to them if their society held a best practice licence.*

**Question 2:***Venue**management is similar to staff performance management. Societies are legally responsible, like managers, but do not do the “doing”. Would the Department’s performance expectations for societies and clubs to monitor their venues, and to learn and change their venue management strategies depending on venue performance outcomes help to improve venue performance? Is it helpful that the Department continues its independent assessment and inspections of venues?*

## How will providing your feedback help?

The Department seeks your feedback so that we can ensure that the process for a best practice licence is appropriate, robust and fit for purpose. The best practice licence is focused on the licence holder and should be considered alongside our other initiatives that are focused on measuring, addressing and improving venue performance. The Department is interested in your views on whether the proposed best practice licence would support improvement in societies and clubs and help have a more trusted and transparent gambling sector.

### Relevant legislation

In order to inform your submission, you may wish to look at the relevant legislation which is set out below.

**Section 52** of the Act sets the grounds that must be satisfied for the Secretary to grant a Class 4 operator’s licence.

**Section 53** of the Act sets out the content and conditions of Class 4 operator’s licence. Section 53(1A) gives the Secretary the power to “specify any expiry date for a class 4 operator’s licence that is not more than 3 years after the commencement date of that licence.”

**Section 53A** of the Act sets out continuing obligations that a Class 4 operator must ensure are being met.

**Section 61(1A)** of the Act sets out the decision to award a three year licence is not able to be appealed to the Gambling Commission.

**Section 69A** of the Act sets out continuing obligations of a corporate society in relation to a class 4 venue licence.

**Section 70** of the Act sets out the content and conditions of Class 4 venue licence. Section 70(1A) gives the Secretary the power to “specify any expiry date for a class 4 venue licence that is not more than 3 years after the commencement date of that licence.”

## Sending us your submission

Please address your submissions to [bestpracticelicence@dia.govt.nz](mailto:bestpracticelicence@dia.govt.nz) or to:

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Department of Internal Affairs Te Tari Taiwhenua

PO Box 805

Wellington 6140

Should you require further information on how to send us your submission, please contact Sharlene Hogan on sharlene.hogan@dia.govt.nz or (04) 495 7207 or Stephanie Grummitt on stephanie.grummitt@dia.govt.nz (04) 495 9429.

Any submissions need to be received by 5pm on **Friday 19 May 2017.**

**What happens to your submission?**

Please note that the Department generally makes all submissions on public consultation publicly available. In your submission please highlight any information you would prefer was withheld should your submission be released. While you may indicate the information you would like withheld, the Department can only withhold if it meets the relevant criteria under the Official Information Act 1982.

# What is best practice?

### What does best practice mean?

The Department’s proposed definition is that best practice means societies, clubs and venues commit to using knowledge and resources available to them to perform over and above the legal minimum requirements.

Best practice within the gambling sector is:

* **focusing on communities and customers;**
* **working with the Department to achieve shared outcomes, and**
* **review and learning**.

The Department is of the view that being a trusted and transparent operator, maximising community benefit and minimising gambling harm underpins our performance expectations for best practice. For example, harm minimisation can be reflected across all of the expectations.

The focus on best practice:

* + encourages new ways for clubs and societies to improve performance;
  + could encourage strategic changes across the sector to improve outcomes;
  + means that clubs and societies would have a stronger focus on their customers and suppliers (e.g. grant recipients and venue operators) and their stakeholders and the community; and
  + could encourage the sector to collaborate with the Department on shared outcomes and to use information to innovate and learn.

*Figure 1: Best practice framework*



### What are the outcomes we want from best practice?

The Department would assess applicants on the following outcomes:

* the applicant and the Department are working collaboratively to minimise harm and benefit communities;
* the community is central to the applicant’s legal compliance and activities and that the applicant is exceeding its legal obligations;
* the applicant actively protects and promotes improvement, and acts with integrity;
* the applicant minimises community harms and maximises benefits;
* effective collaboration and partnerships are fostered;
* the applicant acts with integrity, is trusted and performs highly, and
* the applicant is accountable, acts with integrity and is transparent.

**Question 3:** *Do you think that if the Department is clear on the expected outcomes that there will be some improvement in how societies and clubs approach their legal responsibilities? Would the effect be limited to those who apply for a best practice licence or have a wider effect on Class 4 gambling? Why or why not?*

### What is the performance expectations framework?

The Department has developed a performance expectations framework to help assess the expected outcomes. The performance expectations set out the categories and sub-categories that would be looked at to assess the expected outcomes. The categories and subcategories help guide the assessment and make up what we mean by being accountable to communities and having strong practices and systems.

The performance expectations framework provides a summary of what best practice is, what outcomes are being sought and what should be looked at to assess whether an applicant is demonstrating best practice. A full copy of the performance expectations framework is attached at Appendix 1.

It must be noted that the performance expectations framework encompasses a broad range of categories and sub-categories. The requirements set out in the Act must be met. To be clear, an operator that is not meeting its requirements under the Act will not be eligible for a best practice licence.

**Question 4:** *Does the performance expectations framework make it clear what the Department expects of a best practice licence holder and what would be considered when we assess best practice? If you are a licence holder, would your organisation be able to use it to assess your organisation’s performance and see where improvements can be made? Why or why not?*

### What might we expect to see as examples of best practice?

Practice examples have been developed by the Department to provide some guidance as to the types of activities or processes that a licence holder might undertake, and how these would be rated in terms of a licence holder’s capability if that licence holder was being assessed for a best practice licence.

The practice examples have been created by the Department from hypothetical situations. Sometimes they are an existing practice that has been adapted for the practice examples. Because the Department has not assessed society and club performance in this way before, we do not have information on existing practice examples. The purpose of providing these draft practice examples is to give societies and clubs an idea of:

* how to use the rating scale to rate their own existing practice examples;
* the range of possible examples that could be provided and how they are rated;
* what might be considered best practice;
* there is not a ‘one size fits all’ approach to best practice; and
* the fact that these are examples only - each society and club might have other different practice examples that are also best practice.

These practice examples are draft and are likely to change following consultation and further testing of the performance expectations framework. The Department is interested in any practice examples that submitters would want to supply. It would be helpful if you also used the rating scale to rate the practice examples that you supply.

The Department expects harm minimisation and maximising benefits to be considered in every performance expectation category. For example a possible harm minimisation practice example in the asset management might be that the society or club invests in gaming technology that minimises harm.

A copy of the practice examples can be found at Appendix 2. Please note that these are examples only and are not intended to provide an exhaustive list of what applicants may be doing to meet practice expectations.

**Question 5:** *Do these practice examples provide useful guidance on what we might expect to see in licence holders demonstrating best practice? If not, can these be structured differently so that they do provide useful guidance? Do you have evidential examples that you would prefer to be used instead? Or that are clearer? We are interested in receiving your examples and how you would rate them.*

**Question 6:** *Do you think it would helpful for the Department to build up a practice library of examples and share these with other societies and clubs? Is sharing practice in this way helpful to improving performance in the sector and growing the culture around seeking to improve?*

# Why best practice?

### Why does the Department want to focus on best practice?

The Department’s vision for the Class 4 gambling system is to have a safe, trusted and transparent gambling sector that benefits communities. We want to support the Class 4 sector to continually improve practices and find innovative ways of operating.

The best practice licence incentivises and rewards societies and clubs that demonstrate best practice, and supports our shift to focusing on improvement in the sector.

### What are the potential benefits of a best practice licence?

There are a number of potential benefits to a society or a club to have a best practice licence, including:

* reputational value that comes with supporting and demonstrating best practice;
* supporting a positive public perception of Class 4 gambling;
* supporting robust practices and systems for risk management;
* supporting resilience and Class 4 sustainability;
* providing an incentive to continue to improve and a framework in which to do it;
* increasing collaborative relationships between societies, clubs, venues, service providers and the regulator;
* easing the administrative burden by moving to a three year renewal rather than an annual renewal;
* possibly allowing for longer-term planning for the licence holder and its business partners, and
* potential savings, that possibly include:
  + reduction in compliance costs after the initial changes to become best practice have been made;
  + reduction in cost of auditing forecasting activities annually;
  + reduction in administrative cost and resource, and
  + reduction in other costs (for example if banks and insurance companies have increased assurance from longer licence term, they might reduce some of their costs).

Societies and clubs will place higher value on some of these benefits than on others. Ultimately, it is up to each society and club to decide whether to apply for a best practice licence.

The Department has set out the desired outcomes from the best practice licence framework in Appendix 3.

# Assessing best practice

### Applicants submit a self-assessment

If a society or club decides to apply for a best practice licence, they will submit a self-assessment of their performance to the Department as part of their licence renewal application. The Department’s expectations are that only a very small number of societies and clubs are likely to be ready to apply for a best practice licence in the first year. The best practice rating is a very high standard that is over and above the current compliance approach of societies and clubs. In the past, if the Department has found capable compliant practice, it has referred to this as best practice. As a result of this proposal to move to a best practice licence, the Department is shifting the bar from capable compliant practice to best practice, which is going above and beyond, putting community and customers at the heart of operations, working with the Department on shared outcomes, and regularly monitoring and reviewing what licence holders are doing so that they can make changes to improve.

Applicants will complete their self-assessment using the following documents as guidance:

* performance expectations for best practice licence (see Appendix 1);
* rating scale (to measure how each performance expectation is being met), and
* best practice licence criteria method (to meet the rating criteria of best practice in at least two sub-categories for every category with no weak ratings in any of the sub-categories).

Applicants must first self-assess their own practice examples across all of the categories and sub-categories in the performance expectations. This first self-assessment will indicate to the applicant where their current practice is rated. The applicant will then need to decide what needs to change and how to make those changes to improve their practice. The Department expects that applicants would need to invest in this change process and that it might take some time to build up new comprehensive practice examples that reflect the changes.

Applicants can choose to approach their self-assessment in a way that suits them - for example, by completing an informal self-assessment, a structured project self-assessment, or getting independent assurance of their performance[[2]](#footnote-3). The method chosen is up to the applicant, depending on what suits the size, structure, and culture of the applicant best.

The Department will review the self-assessment, verify the evidence provided and assess whether the applicant is eligible for a best practice licence. The Department uses the same rating scale and criteria assessment method when it evaluates and assesses the applicant’s self-assessment and practice examples. The Department makes the decisions on whether the applicant’s practice examples are sufficient and comprehensive enough to grant a best practice licence.

The Department’s expectation is that applications for a best practice licence would be submitted only by societies and clubs whose own self-assessment shows they are demonstrating best practice. No one should apply unless they are confident that they have a comprehensive list with a variety of evidential examples that show best practice in at least two of every sub-category and no weak ratings.

**Question 7:** *Please let us know in your submission if you are thinking of applying for a best practice licence.* *The Department intends to have regional workshops on how to apply for a best practice licence for societies and their boards, as well as clubs. It would help our planning to know the interest amongst clubs and societies.*

### What is the rating scale for a best practice licence?

Each aspect of the applicant’s performance would be rated using the following rating scale:

* Best Practice/Excellent (4)
* Well placed / Capable (3)
* Needing development / Developing (2)
* Weak / Unaware or Limited Capability (1)
* Unable to Rate / Not Rated (0)

A rating of ‘weak’ or lower in any of the performance expectation categories (see Appendix 1) would mean that the applicant would not be eligible to hold a best practice licence.[[3]](#footnote-4)

The rating scale with an explanation of what each rating means is attached at Appendix 4. [[4]](#footnote-5)

**Question 8:** *Is the rating scale clear and easy to use? If not, why not? What needs to be done to make it easier to use?*

### How do we assess whether a licence holder is operating well enough to be granted a best practice licence?

The Department has settled on using the “Cross-Category Approach” to assess eligibility for a best practice licence. This approach is set out in detail below. The Department explored other ways of deciding the criteria assessment methods. These options that are not preferred by the Department can be found at Appendix 5.

#### Cross-Category Approach

**Description of the approach:** At least two subcategories in each category need to be assessed as ‘best practice/excellent’, which:[[5]](#footnote-6)

* supports best practice across all categories enable the applicant to be flexible about which sub-categories they will focus on to be best practice;
* allows the applicant to focus on those areas that they believe are most important or that they are strong in; and
* means that meeting the criteria assessment is relatively straightforward to implement.

Although the performance expectations for a best practice licence are above what is required under the legislation, having a rating of ‘Needing Development’ or higher would ensure that the applicant is demonstrating adequate current performance overall.

An example of how this rating option is applied to a category and the sub-categories within it is set out below.

**Question 9:** *Are two subcategories within each category sufficient for an applicant to be demonstrating best practice? If not, what should the threshold be?*

**Question 10:** *Should it be compulsory for an applicant to be demonstrating best practice in its harm minimisation practices to be eligible for a best practice licence? Why or why not? Are there any other areas that you believe should be compulsory for an applicant to be eligible for a best practice licence?*

#### Illustration of the Cross-Category Approach

**Category: Relationships**[[6]](#footnote-7)

*Example One – Applicant meets no required expected scores – declined.*

*Example Two – Applicant meets one out of four required expected scores – declined.*

*Example Three – Applicant meets two out of four required expected scores, but assessed as “weak” in one category – declined.*

*Example Four – Applicant meets two out of four required expected scores, and not assessed as “weak” in any other category – approved.*

**Question 11:** *Do you think this approach is a fair measure of whether a licence holder is demonstrating best practice? If not, is there a different approach in Appendix 5 that you think would work better? Why?*

# How will a best practice licence work?

### Proposed design for the Department to decide a best practice licence

The Department considered a number of design options for a best practice licence. The Department’s preferred approach to how it will decide best practice and monitor these licence holders is set out below. The full list of all explored design options is provided in Appendix 6.

The proposed design seeks to minimise the costs of this design by making use as far as possible of current processes and existing requirements – for example, making continued use of the existing legal requirement for licence holders to submit an Annual Report to the Department. The Department balances these costs against the risks that the wrong society or club is given a best practice licence, or that the licence holder’s practice deteriorates over the three year licence term. Mitigating all of these risks would prove very expensive and would not work with our operating approach of being a really responsive risk-based regulator. Instead, this preferred design balances the costs against the risks.

As explained in the section above, the design also allows applicants flexibility in how they go about providing evidence of their performance to the Department, and what that evidence is. The Department is not trying to limit best practice to a specific example, but rather open it up so that the focus is more on how a society or club is working to achieve best practice.

Table 1: Proposed Design

|  |  |
| --- | --- |
|  |  |
| **Licence period** | Applicant to apply for either:   * 1 year (standard); OR * 3 year (best practice licence) |
| **Eligibility for best practice Licence** | Any Class 4 society or club who has held a current licence for at least three full years; AND  Annual (standard) licence renewal requirements must be met |
| **Assessment for best practice Licence** | Self-assessment of performance provided by the applicant with their application (Applicant has the flexibility to decide how to do this); AND  The Department reviews the self-assessment; AND  The Department verifies the evidence provided by applicant in the self-assessment.  IF APPLICABLE:  If the applicant has previously held a best practice licence, its performance over that licence period will form part of the assessment |
| **Monitoring for best practice Licence holder** | Audit/compliance actions at any time if required as per the Department’s usual compliance approach AND  Annual health check which consists of: [[7]](#footnote-8)   * the licence holder’s annual report (required under the Act); AND * Department’s profile of the society or club. |
| **Ongoing monitoring of a best practice Licence holder** | If a legal requirement is breached, then standard compliance action will be taken. The response to any breach will align with the Department’s approach to being a really responsive, risk-based regulator. [[8]](#footnote-9)  If a best practice requirement is no longer being met in a club or society, the licence holder would be expected to resolve this.  If the society or club does not continue to improve its practices and demonstrate how it is doing this, it would not be eligible for a best practice licence at the time of the renewal. |

**Question 12:** *Do you think the monitoring actions proposed for a best practice licence holder are appropriate? Why or why not?*

### The current fees regulations will apply until the upcoming fees review is completed

The Department will finalise its costs once the process for assessing an applicant for a best practice licence is bedded in.

The current regulations set out a flat fee for the licence renewal, which will continue to apply [refer to the Gambling (Fees) Regulations]:

* clubs will pay the ‘renewal of licence’ fee once for a three year licence period
* societies will pay:
  + the Class 4 operator’s annual fee three times (Regulation 16(1))
  + their operator ‘renewal of licence’ fee once for a three year licence period
  + their venue ‘renewal of licence’ fees once for a three year licence period

**Note** that all other fees are unaffected.

In 2018/19 the Department will review its costs and the fees regulations, including the fee for the above renewal of licence fees. As a result, the future renewal fees might go up or down. The fee might remain as a flat fee or a separate fee for the best practice (three year) licence might be introduced. Until the fees review is complete, the Department will apply the current fee structure in the regulations as set out above.

# What happens next?

### Support for societies and clubs

The Department intends to support the sector to understand the best practice licence process, including how to do a self-assessment. Each society or club would need to decide for themselves how to make any improvements to become best practice in at least two sub-categories for all of the categories.

To help societies and clubs the Department intends to:

* create a template to assist licence holders in completing self-assessments;
* provide guidance material for licence holders on how to complete the self-assessment;
* provide feedback to societies and clubs on the best practice licence applications;
* to work with each applicant to help them to attain best practice if the Department rates the evidential examples differently to the applicant;
* run regional workshops (at this stage intended for October 2017) with licence holders and their governance so that licence holders can receive information on how to use the material and guidance, and
* ensure ongoing liaison support is available from the Department during the process.

**Question 13:** *We are interested in your views on whether the above support is helpful and would be of benefit to your society or club.* *What other support would you need? Or prefer to have?*

**Question 14:** *The best practice process seeks to improve transparency and make practice improvements. The Department is subject to a similar approach when the State Services Commission reviews the Department’s performance. The State Services Commission makes all of its performance assessments public (including the Department’s). Do you think sector performance would improve more quickly, if the Department released successful best practice licence applications and the licence holders’ self-assessments? Would a library of practice examples be more helpful?*

### Operational Implications for the Department

Once we have received submissions, analysed them, and then decided and finalised the best practice licence process, the Department will make any internal changes that are necessary for it to be implemented. These internal changes include providing staff training, creating internal resources and tools to support staff when considering a best practice licence application, and making any technical process changes.

The Department is also considering whether the performance expectations framework and practice examples would be useful for our society and club audits. The Department thinks using these in our audits would better:

* support societies and clubs to continue to improve their performance by giving them a better understanding of their organisation’s strengths and weaknesses;
* inform our decisions about whether a sanction is appropriate, depending on how systemic the compliance issue(s) is and how responsive the organisation is to making practice improvements.

**Question 15:** *If the Department were to use the performance expectations framework in its routine performance audits, would this approach improve consistency and the performance improvement outcomes in the Class 4 sector? Would it increase the importance of the best practice licence and result in a greater number of societies and clubs making the changes to become best practice?*

### We will test the performance expectations framework in a compliance audit

One way to help us decide if the performance expectations framework is fit for purpose and useful for our compliance audits is to test it in practice. We would like to test it in two small-medium size societies and one club by doing a compliance audit. This test would mean that each club and society would first complete a self-assessment using draft guidance material. The Department would then come into the society/club and run the compliance audit using the performance expectations framework and the rating scale.

**Question 16:** *Are you a club or small to medium sized society with an interest in participating in testing the framework in a compliance audit? We invite small-medium sized societies and clubs to express their interest in participating in the testing by either indicating your interest in your submission, or contacting your Department liaison directly.*

# How did we develop the proposal for a best practice licence?

### We worked with the Class 4 Gambling sector

The Department engaged with a number of stakeholders as we worked through this proposal. We needed to develop a framework that was flexible enough to be inclusive for all licence holders (i.e. to allow all operators the opportunity to work towards a best practice licence) and at the same time be clear enough to provide guidance and practice examples to assist operators with their assessments.

**Early informal consultation**

The project team engaged in informal consultation with stakeholders from early in the process (from mid-2016). This involved a number of discussions and meetings with various societies, clubs, problem gambling service providers and solicitors with specialist knowledge of Class 4 gambling. These discussions shaped the thinking in the early development of this framework.

**Sector forums**

In November and December 2016, the Department held sector forums in Dunedin, Wellington, Christchurch and Auckland to discuss a number of matters. As part of those forums, attendees were briefed on the progress and direction of the best practice licence project. During those forums, the Department also asked the sector to get in touch with us if they wanted to be involved in the Sector Technical Reference Group workshops in early 2017.

A copy of the presentation given at the sector forums on the best practice licence project is available on request.

**Sector Technical Reference Group workshops**

In late 2016, the Department and the Class 4 Working Party established the Sector Technical Reference Group (STRG). The STRG held four workshops in January and February 2017 to work through the technical feasibility of the proposed framework for a best practice Licence.

The purpose of the STRG was to advise the best practice licence project team on technical feasibility and any related technical issues for societies and clubs. The advice of the STRG was limited to the Department’s proposed performance expectations (including practice examples and the self-assessment requirement), rating options, design options and cost implications for the proposed best practice licence framework.

The Terms of Reference for the STRG is attached at Appendix 7. Copies of the minutes of the workshops are available on request.

## Consultation requirements

While there is no requirement to consult on operational matters, we are undertaking consultation because of the proposal’s focus on putting customers and community at the heart of the licence holders’ operations. This has the potential to impact on licence holders as well as on grant applicants, grant recipients, venue operators and the community.

### Fit with Class 4 Gambling Review

The best practice licence is one of the Department’s operational responses to supporting licence holder resilience in the Class 4 sector. It also aims to support a more positive perception of the Class 4 sector and its role in our communities.

The Class 4 Gambling Review is a longer-term strategic review of the Class 4 gambling regime. This review is continuing alongside the other activities that the Department is doing to support ongoing improvement and resilience in the Class 4 sector.

### We considered a number of options for the performance expectations framework

We based our approach on existing public sector assessment frameworks

In putting together the approach to the best practice licence, the Department reviewed a number of frameworks from other agencies that assess performance, including:

* + State Services Commission Performance Improvement Framework;
  + Education Review Office School Evaluation Indicators, and
  + the Government Chief Privacy Officer maturity framework.

None of the frameworks was a perfect fit for the best practice licence assessment, although many had elements that we wanted to capture in the assessment. The State Services Commission Performance Improvement Framework (PIF) appeared to be most closely aligned with what we are trying to achieve – looking across a licence holder to measure its performance. It has a rating scale to assess performance, and it has also been designed to measure best practice. Using the State Services Commission PIF also means that the Department and the societies and clubs it regulates are subject to very similar assessments. The Department sees value in this if we are working together on achieving shared outcomes. Therefore, the Department used the PIF as a basis and leveraged elements from other existing frameworks to adapt it into one that is suitable for a best practice licence.

# Questions for submitters

This is summary of the questions that have been asked of submitters throughout the consultation document. The relevant page number is indicated at the end of each question for your reference.

1. Are you a venue operator or manager? The Department is interested in hearing from venue operators and managers about their interest in the best practice licence and what it means to them if their society held a best practice licence. (page 5)
2. Venuemanagement is similar to staff performance management. Societies are legally responsible, like managers, but do not do the “doing”. Would the Department’s performance expectations for societies and clubs to monitor their venues, and to learn and change their venue management strategies depending on venue performance outcomes help to improve venue performance? Is it helpful that the Department continues its independent assessment and inspections of venues? (page 6)
3. Do you think that if the Department is clear on outcomes it expects that there will be some improvement in how societies and clubs approach their legal responsibilities? Would the effect be limited to those who apply for a best practice licence or have a wider effect on Class 4 gambling? Why or why not? (page 9)
4. Does the performance expectations framework make it clear what the Department expects of a best practice licence holder and what would be considered when we assess best practice? If you are a licence holder, would your organisation be able to use it to assess your organisation’s performance and see where improvements can be made? Why or why not? (page 9)
5. Do these practice examples provide useful guidance on what we might expect to see in licence holders demonstrating best practice? If not, can these be structured differently so that they do provide useful guidance? Do you have evidential examples that you would prefer to be used instead? Or that are clearer? We are interested in receiving your examples and how you would rate them. (page 10)
6. Do you think it would helpful for the Department to build up a practice library of examples and share these with other societies and clubs? Is sharing practice in this way helpful to improving performance in the sector and growing the culture around seeking to improve? (page 10)
7. Please let us know in your submission if you are thinking of applying for a best practice licence. The Department intends to have regional workshops on how to apply for a best practice licence for societies and their Boards, as well as clubs and their committees. It would help our planning to know the interest amongst clubs and societies. (page 13)
8. Is the rating scale clear and easy to use? If not, why not? What needs to be done to make it easier to use? (page 13)
9. Are two subcategories within each category sufficient for an applicant to be demonstrating best practice? If not, what should the threshold be? (page 14)
10. Should it be compulsory for an applicant to be demonstrating best practice in its harm minimisation practices to be eligible for a best practice licence? Why or why not? Are there any other areas that you believe should be compulsory for an applicant to be eligible for a best practice licence? (page 14)
11. Do you think the cross-category approach is a fair measure of whether a licence holder is demonstrating best practice? If not, is there a different approach in Appendix 5 that you think would work better? Why? (page 16)
12. Do you think the monitoring actions proposed for a best practice licence holder are appropriate? Why or why not? (page 18)
13. We are interested in your views on whether the above support is helpful and would be of benefit to your society or club. What other support would you need? Or prefer to have? (page 20)
14. The best practice process seeks to improve transparency and make practice improvements. The Department is subject to a similar approach when the State Services Commissions reviews the Department’s performance. The State Services Commission makes all of its performance assessments public (including the Department’s). Do you think sector performance would improve more quickly, if the Department released successful best practice licence applications and the licence holders’ self-assessments? Would a library of practice examples be more helpful? (page 20)
15. If the Department were to use the performance expectations framework in its routine performance audits, would this approach improve consistency and the performance improvement outcomes in the Class 4 sector? Would it increase the importance of the best practice licence and result in a greater number of societies and clubs making the changes to become best practice? (page 21)
16. Are you a club or small to medium sized society with an interest in participating in testing the framework in a compliance audit? We invite small-medium sized societies and clubs to express their interest in participating in the testing by either indicating your interest in your submission, or contacting your Department liaison directly. (page 21)

# Appendices

### Appendix 1: Performance Expectation Framework





### Appendix 2: Practice Examples

**Practice examples only\* – licence holders determine their own practice within the best practice expectations framework.**

\*Note that these practice examples are comprised of a mix of actual and hypothetical practices across the sector and are draft at this point. The Department’s gambling inspectors have developed these practice examples for the purposes of consultation to give an overall understanding of how the rating scale would operate and what examples are likely to be considered best practice.

If you have evidential examples that you think should be used, or that might reflect best practice better, the Department would like to receive them. You might also think the evidential examples are too difficult or too easy for best practice. The Department is interested in your views on these. The practice examples are likely to change following submissions and further testing, so do not rely on these examples if your society or club wants to start getting ready for the best practice licence now.

#### Shared outcomes examples: working together to achieve the C4 Vision

| Framework | Example of weak performance | Example of needing development | Example of well-placed capable | Example of best practice |
| --- | --- | --- | --- | --- |
| **Shared outcomes:** Actively Protects | Delayed notification of key person changes.  Harm minimisation training focuses on legal compliance and does not align with the Department’s expectations of best practice harm minimisation (as outlined in the Gamble Host resources). | Attends Department-run harm minimisation workshops. | Collaborative approaches to harm minimisation where the Department, licence holders, and gambling health service providers work together to innovate new ways to improve outcomes.  Actively seeking support from the Department to build relationships with gambling health service providers. | Licence holders instigate collaboration with the Department and gambling health service providers to work together to design an innovative solution to a harm problem identified through licence holders’ information or from the local community.  Processes (e.g. multi-venue exclusions) are reviewed regularly to identify gaps and make any necessary improvements.  Enhanced procedures seen around exclusion orders, including a record of timely notifications to the Department of breaches/attempted breaches of exclusion orders. A follow-up 6 month review of the enhanced exclusion order practices shows that exclusion order practices across the region have improved. |
| **Shared outcomes:** Trusted and transparent | Slow communication and inadequate information sharing with the Department. | Licence holder picks up and responds to general Department practice advice on information sharing. | Provide clear and specific information on the website about what the society will and will not fund with grant funding. | Licence holder identifies a problem that it actively discloses and seeks collaboration with the Department and/or community licence holder to rectify. Policies and procedures are amended to reflect collaborative approach to the problem. |
| **Shared outcomes:** Benefit community | Repeated or overly large grants given to same recipients with little or no consideration of community needs. | Licence holder responds to Department practice advice on how to improve the grants process for the community. | Licence holder and the Department share information to respond to community needs and trends. Examples include sharing grants information with the community, and instigating more harm minimisation support in local venues where strong problem gambling indicators are present. | Licence holder regularly talks to community leaders to learn about the community and understand the community needs. If needed, the licence holder either adjusts the grant process to meet those community needs or collaborates with the Department and other organisations to better serve the community. |
| **Shared Outcomes:**  Maximises returns | Licence holder does not follow up with grant recipients who failed to return required documentation to confirm that grant spent on agreed purpose. Therefore licence holder cannot be sure that funds have been spent on agreed purpose, therefore returns to community are not necessarily being maximised. | Licence holder has recognised weakness in its processes and is addressing these through stronger policies, processes and dedicated staff resource. | Licence holder discovers incident of grant fraud through its own grant accountability auditing process and proactively reports the grant fraud to the Department. (*For best practice - licence holder identifies what, if any, weakness in its processes led to the fraud occurring and what if any learnings and changes can be taken from the incident and strengthens its processes accordingly. Licence holder shares this with Department)* | Licence holder routinely provides advice to unsuccessful grant applicants about which societies’ APs align with their needs so that applicants can direct applications appropriately, and not waste resources on applications which are unlikely to be approved. |

#### Core Business Examples

| Framework | Example of weak performance | Example of needing development | Example of well-placed capable | Example of best practice |
| --- | --- | --- | --- | --- |
| **Core business:** How the legal obligations in sections 53A are delivered | Lack of unity and commitment by the governance and leadership of the licence holder as to how to best achieve a balance between maximising benefit and minimising harm.  Overly focused on venue retention to the detriment of maintaining a balance between minimising harm and maximising benefit. | When approached, the licence holder willingly makes changes to their practices to improve compliance with section 53A.  Keeps track of and updates its policies and procedures to ensure they are up to date as soon as possible after regulatory changes are introduced.  Does not have a coherent or robust compliance strategy in place to deliver the legal obligations. | A strong commitment to the legal obligations in section 53A is displayed and reflected in all leadership decisions and licence holder systems.    Develops a sound risk-based compliance strategy for its venues, with the objective of achieving a balance between maximising benefit and minimising harm. | Board and senior leadership culture of commitment to harm minimisation is mirrored in the conduct of operational staff, and regular review and learning take place to improve culture of care for harm minimisation. Staff conduct reflects the culture of care. |
| **Core business:** Maximises benefits | Limited processes or systems to verify and address compliance issues.  Limited evidence of seeking quotes for costs and other due diligence examples. | Compliance issues are addressed when notified or identified. | Licence holder worked with the Department to minimise costs by getting CCTV coverage to avoid having to pay for a new layout. (*For best practice – we would need more information on how the decision was made, and how it is being reviewed to ensure that it is effective)* | Sound systems in place for monitoring legal compliance in venues and grants process.  Fully transparent reporting at regular intervals, with full disclosure. |
| **Core business:** How the obligations in section 69A are delivered | Responds to compliance issues as isolated incidents without seeking to establish if there may be wider or systemic venue issues emerging.  Licence holder has no awareness of the likely suitability of key people. | Licence holders take action to address any of the Department’s concerns regarding unsuitability, such as talking to the venue operator to check his/her confidence in the key person and ensuring that venue operations would not be affected by the key person.  Ensures its venues are well informed and compliant with any changes to the regulatory regime and/or Department policies. | Licence holders have awareness about new key persons and new venues and have an idea ahead of application whether the key persons are likely to be found suitable by the Department and have already worked with the venue operator if the society or club think there might be an issue.  Collects and records information on the levels of compliance by venues and uses this to develop a good understanding of the drivers and determinants of compliance and good practice. | Monitors the impact of regulatory changes on its own performance or that of venues, and proactively provides feedback to the Department, for example on the Venue Commission Payments regime. |
| **Core business::** Harm minimisation | Lack of support from the licence holder for venues in harm minimisation processes. | Basic harm minimisation practices are followed by venue staff. | Licence holder identified need for staff to be trained without delay and developed an online training tool to ensure this would happen. (*Further information will be needed on the effectiveness of the training)* | Venues can demonstrate support from operators about how to improve their harm minimisation practices. |

#### Leadership and Direction Examples

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Framework | Example of weak performance | Example of needing development | Example of well-placed capable | Example of best practice |
| **Leadership and direction:** Purpose, vision, strategy | There is no strategy or plan in place to engage with the community. | Venue retention is a primary driver for the licence holder. | There is a demonstrated balance between harm minimisation, grants, and venue retention. | Community is at the centre of the licence holder’s purpose, vision, and strategy which is reflected in how operational staff deliver and interact. |
| **Leadership and direction:** Leadership and governance | Governance has no or limited awareness of legal compliance. | Net Proceeds Committee fulfils obligations of trust deed. | Effective succession planning is in place. | Governance and leadership regularly review and adapt the strategic plan to improve overall performance. |
| **Leadership and direction:**  Values | Values of leadership and governance not communicated. | Staff know about values but are not supported to act upon them. | Values are clearly reflected in the grants process. | Venues reflect and support the applicant’s strategic directions. |
| **Leadership and direction:** Behaviour and culture | Fractured behaviour within governance group or senior management. | Plan is in place to unify culture. | Positive working relationship with staff, the Department, and venues. | Staff reflect a unified culture in how they interact with the community. |
| **Leadership and direction** Review | Review results not adequately addressed. | Limited reviews or reviews carried out only when issues are identified. | Regularly reviewing and monitoring legal compliance. | Ongoing review and proactive response of governing processes to drive continual improvements. |

#### Delivery Examples

| Framework | Example of weak performance | Example of needing development | Example of well-placed capable | Example of best practice |
| --- | --- | --- | --- | --- |
| **Delivery:** Operating model | Operating model not driving operational processes. | Operating model adequate but static – no ongoing review practices in place. | Licence holder regularly reviews and adapts its processes to ensure its delivery supports the community and its venues. | Licence holder demonstrates innovation and incorporates future-proofing considerations in its operating model. |
| **Delivery:** Partnerships | Limited understanding of the value of community partnerships. | Demonstrates awareness of the need to engage with grant recipients and community organisations but has limited capability or resources to do so. | Regular engagement with grant recipients and community organisations. | Demonstrates proactive engagement with the wider community to information licence holder’s practice and strategy.  Evidence of close engagement with problem gambling service providers, and performance improvement as a result.  A club issues an exclusion order to a patron and immediately alerts a neighbouring club that it has done so. This shows the club is working closely with others to minimise gambling harm. |
| **Delivery:** Community experiences | Limited or no awareness of community needs. | Adequate communication with community groups on grants processes. | Harm minimisation practices are relevant to cultures in the local community. | There is a strong monitoring of community needs and working with community organisations to ensure that grants are giving back to the local community or communities of interest.  A club issues an exclusion order to a gambler. However the club is concerned that the exclusion will not be effective, so calls a family meeting to address the concerns and ensure harm is minimised for the gambler. |
| **Delivery:** Customers are engaged | Licence holder has no awareness of weaknesses in venue harm minimisation practices.  There is no plan in place to address venue underperformance. | Licence holder has scheduled visits to check on venue performance. | There is ongoing assessment and performance management of venues.  Licence holder demonstrates early engagement with an incoming venue by identifying what the harm min training needs are and providing it. (*For best practice, evidence that such initiatives are appropriate, effective, timely and happen on more than one or two occasions or consistently.)* | Venue managers are supported to supply an efficient and innovative service that ensures compliance and improves culture of care. |

#### Relationships Examples

| Framework | Example of weak performance | Example of needing development | Example of well-placed capable | Example of best practice |
| --- | --- | --- | --- | --- |
| **Relationships:** Engagement with the Department | Management is focused on their own affairs rather than building or maintaining a relationship with the Department. | Licence holder readily responds to Department requests.  Evidence that society will notify the Department when it needs to. A couple of examples of proactive notifications so some improvement is happening. | There is open and trusted communications with the Department.  Evidence that the Department can engage directly and informally with the operator when information is required. (*For best practice - need more evidence of proactive engagement*). | There is proactive engagement with the Department about weaknesses and plans to mitigate to improve overall performance. |
| **Relationships:** System Contribution | No significant effort put into working with the sector to improve. | Regular attendance and contribution to sector forums. | Innovation is shared with the sector (e.g. gaming technology). | Identifying an issue relevant to the whole sector and driving the collaboration in the sector to resolve it, even where it might not suit the society’s best interest.  Licence holder identified a harm minimisation training need in a venue that was with a different society, but is changing to the licence holder. They provide advice to the venue about what would need to change ahead of that formal changeover so that venue practice would improve quickly. |
| **Relationships:** Collaborations | Licence holder representatives do not adequately engage with venues. | Seminars held for community organisations on the grants application process. | There is contact with other licence holders to check that grants are fairly distributed amongst recipients.  Licence holder routinely sits down with community organisations to help them work through the application process in line with community need (*For best practice - need more info about communication with other societies and how this links in*). | Governance and leadership have strong relationships with Territorial Local Authorities and community organisations to identify appropriate responses to harms and needs. |
| **Relationships:** Community organisations | Unwilling to respond to community need. | Regular engagement with gambling harm service providers on multi-venue exclusions. | Licence holder meets regularly with local problem gambling service providers and TLA to understand community need and respond to it. (*For best practice - more information and evidence would be required on the changes made following these meetings whether review of the changes were helpful*) | Licence holder works with gambling harm service providers to deliver harm minimisation effectively.  Licence holder uses information from external stakeholder relationships to address and improve venue performance. |

#### People Development Examples

| Framework | Example of weak performance | Example of needing development | Example of well-placed capable | Example of best practice |
| --- | --- | --- | --- | --- |
| **People development:** Leadership and workforce | Licence holder representatives / club managers lack comprehensive training.  Staff not supported to raise issues and have open communication. | Licence holder has robust employment performance practices. | Licence holder has training and learning in place to grow capability to achieve strategic direction. | Staff are supported to actively raise issues and areas of concern where there are risks or challenges to the strategic direction, these are addressed or a plan is put in place. |
| **People development:** People management | Inability to recognise performance gaps and/or limited awareness of what good performance looks like. | Staff and board members needing development are identified and an appropriate plan is in place to improve. | There is a system in place to address and lift overall performance to achieve high levels. | Staff are innovative and engaged. Good performance is rewarded. Staff strives to learn and seek opportunities to improve. |
| **People development:** Engagement with staff | Ineffective engagement with staff and/or limited ability to track improvement. | Staff are regularly engaged for ongoing improvement and this engagement is used to make improvements. | A plan is put in place to address staff issues and survey results show steady improvement. | Engagement issues are readily responded to and new approaches are developed and trialled. |
| **People development:** Venue training | There is little intervention by the venue manager to intervene or support staff on harm minimisation. | Venue staff are trained, supported to deliver gambling host responsibility. | Licence holder regularly support venues so staff are safe and display gambling host responsibility.  Licence holder provides a video and role play as part of its harm minimisation training and follows up to ensure staff completed the exercise and understand their harm minimisation role. (*For best practice -* *need more info on how they review effectiveness of training and make changes accordingly*) | Licence holder regularly verifies that venue staff delivers effective intervention. |

#### Financial & Resource Management Examples

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Framework | Example of weak performance | Example of needing development | Example of well-placed capable | Example of best practice |
| **Financial & Resource Management:** Asset Management | Action is taken in response to issues as they arise. | Gaming Machines are maintained and comply with requirements. | Licence holder employs a technician directly rather than contracting out to a service provider. (*For best practice - need more evidence as to why that decision was made and the factors considered*)  An asset management plan is in place. | Has a responsive asset management strategy in place that minimises costs. |
| **Financial & Resource Management:**  Information Management | Information not stored in a structured and/or secure manner. | Maintains adequate records. | Has a structured information management system where records/information can be easily retrieved. | Has a structured information management system and uses the information to incorporate into strategy and planning processes. |
| **Financial & Resource Management:**  Financial Management | Weak accounting practices and no plan in place to address them. | Practices in place that meet their financial obligations. | Financial strategy in place that follows established practices. | Financial strategy in place underpinned by established practices that aim to maximise benefits to the community. The plan is reviewed regularly.  Licence holder reviews its venue payments every 8 weeks to minimise the risk of overpayment. |
| **Financial & Resource Management:**  Risk Management | Limited awareness of risks or capacity to respond to issues as they arise. | Responds to issues as they arise. | Demonstrates an awareness and ongoing management of risks.  Licence holder maintains a risk register and ensures it is regularly reviewed. (*For best practice - need more information on the follow-up and action taken in response*) | Has a robust risk management plan, demonstrates proactive identification and management of risks, and takes steps to prevent these risks from becoming issues in the future. |

### Appendix 3: Outcomes Framework



### Appendix 4: Rating scale (PIF)



### Appendix 5: Assessment Methods

Assessment Method Option 1 - Balanced Scorecard

**Description of option:** This option sets a minimum requirement for each **category** that must be achieved and calculates an overall score that must meet the required threshold

**Assumed pros:**

* Allows flexibility within categories so the applicant can focus its efforts on the basis of its values and strengths

**Assumed cons:**

* Potentially limits overall performance improvement if a strong performer in one particular subcategory can meet requirements by focusing on that subcategory to the exclusion of others
* Implementation may be complex as this would likely require an subcategory-based framework to sit within it for consistent assessment purposes

*Example One – Applicant does not meet required threshold in all categories – declined.*

*Example Two – Applicant meets required threshold in all categories, but not overall score – declined.*

*Example Three – Applicant meets required threshold in all categories and overall score – approved.*

**Assessment Method Option 2 – Weighted Approach**

**Description of option:** Applicants must meet the minimum assessment score that has been set for each **subcategory.**

**Assumed pros:**

* This allows more ‘important’ subcategories to be worth a higher score and therefore drive improvement in those areas
* It sets very specific and clear expectations for applicants

**Assumed cons:**

* It introduces subjectivity about what the most important subcategories are and how much they should be weighted for assessment purposes
* It is likely to remove a level of flexibility from the applicant to make decisions about where to focus efforts and resources

Category: Financial and Resource Management

*Example One - Applicant does not meet required threshold in all subcategories – declined.*

*Example Two - Applicant meets required threshold in all subcategories – approved.*

**Assessment method Option 3 – Straight Overall Rating**

**Description of option:** This is a shared total score across the board –applicants must achieve at least 50% within each subcategory

**Assumed pros:**

* This supports best practice across all categories
* Assessment would be straightforward (all subcategories are worth the same)

**Assumed cons:**

* This may stop some innovation in certain areas because applicants would need to allocate their resources widely to cover all subcategories
* This is likely to remove some flexibility and ownership of business decisions from the applicant because they must focus on all subcategories

Category: People Development

*Example One – Average Score across all subcategories does not meet required average – declined.*

*Example Two – Average Score across all subcategories meets required average – approved.*

**Assessment method Option 4 – Cross-Category Approach**

**Description of option:** This approach means that half of the category needs to meet best practice (i.e. where there are four subcategories, two of them need to meet best practice) but it does not matter which subcategories these are. Applicant must score at least ‘Needing Development’ or higher in the other subcategories.

**Assumed pros:**

* This supports best practice across all categories but is not prescriptive about where an applicant’s efforts should be directed
* Allows applicant to focus on those areas that they believe are most important or that they are strong in
* Assessment is straightforward and simple to implement

**Assumed cons:**

* None identified

Category: Relationships

*Example One – Applicant meets no required expected scores – declined.*

*Example Two – Applicant meets one out of four required expected scores – declined.*

*Example Three – Applicant meets two out of four required expected scores, but assessed as “weak” in one category – declined.*

*Example Four – Applicant meets two out of four required expected scores, and not assessed as “weak” in any other category – approved.*

Initial assessment of rating scale options (prior to consultation):

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Option 1: Balanced Scorecard | Option 2:  Weighted Approach | Option 3: Straight Overall Rating | Option 4: Cross-Category Approach |
| (IO) Supports Innovation and best practice | Partially met | Partially met | Partially met | Fully met |
| (IO) Class 4 Sector behave responsibly and with integrity | Partially met | Partially met | Partially met | Fully met |
| (IO) Improve effectiveness in C4 governance structures, business planning and stability | Partially met | Partially met | Partially met | Fully met |
| **Summary of investment objectives** | **Partially met** | **Partially met** | **Partially met** | **Fully met** |
| (CSF) Broad C4 stakeholder support | Partially met | Partially met | Partially met | Fully met |
| (CSF) affordable | Partially met | Partially met | Not met | Fully met |
| (CSF) achievable implementation | Not met | Partially met | Fully met | Fully met |
| (CSF) balances the risks | Partially met | Partially met | Partially met | Fully met |
| **Summary of critical success factors** | **Not met** | **Partially met** | **Not met** | **Fully met** |

### Appendix 6: Design options

**DRAFT Options - 3 Year Licence Project**

|  | OPTION 1  (Higher cost) | OPTION 2  (Medium cost) | OPTION 3  (Lower cost) |
| --- | --- | --- | --- |
| **Licence period** | * Applicant to apply for either:   + 1 year (standard) OR   + 2 year (partially extended) OR   + 3 year (fully extended) | * Applicant to apply for either:   + 1 year (standard) OR   + 3 year (best practice licence) | * Applicant to apply for either:   + 1 year (standard) OR   + 3 year (best practice licence). |
| **Eligibility for best practice Licence** | * Any class 4 society or club who has held a current licence for at least three full years. * Annual (standard) licence renewal requirements met | * Same as option (1) | * Same as option (1) and (2) |
| **Assessment for best practice Licence** | * Sufficient evidence provided by applicant to assess application AND * Full evaluation by independent third party and the regulator to verify evidence provided. * If the applicant has previously held a 3YL, its performance over that licence period will form part of the assessment.\* | * Self-assessment of performance provided by the applicant with their application (Applicant has the flexibility to decide how to do this); AND * The Department reviews the self-assessment; AND * The Department verifies the evidence provided by applicant in the self-assessment.   IF APPLICABLE:   * If the applicant has previously held a 3YL, its performance over that licence period will form part of the assessment | * Sufficient evidence provided by applicant to assess application. Applicant has the flexibility to decide how to do this.   AND   * Targeted desk-based evaluation by regulator to assess key evidence provided AND * Spot check by regulator to verify key evidence provided. * If the applicant has previously held a 3YL, its performance over that licence period will form part of the assessment.\* |
| **Monitoring for best practice Licence holder** | * Audit/compliance actions at any time if required as per standard process AND * Annual health check at the usual society licence renewal time which covers: * Truncated financial viability check * Brief Compliance review * Check society A3 * Checking internal database (IGP/SID) for potential issues that should be considered * Statement from society outlining any issues that have arisen and steps that have been taken. | * Audit/compliance actions at any time if required as per standard process AND * Annual health check of:   + Annual report (already required)   + Departmental society profile | * Audit/compliance actions at any time if required as per standard process AND * Annual report (already required) |
| **Ongoing action for best practice Licence holder** | * If a legal requirement is breached, then standard compliance action will be taken. * If a best practice requirement is no longer being met in a venue, club or society, the society or club will be expected to resolve this * The response to any breach will align with the C4 Operating Model approach to being a really responsive, risk-based regulator. | * If a legal requirement is breached, then standard compliance action will be taken. * If a best practice requirement is no longer being met in a venue, club or society, the society will be expected to resolve this * The response to any breach will align with the C4 Operating Model approach to being a really responsive, risk-based regulator. | * If a legal requirement is breached, then standard compliance action will be taken. * The response to any breach will align with the C4 Operating Model approach to being a really responsive, risk-based regulator. |

\**This is to deter 3 year licence holders from slipping in practice expectations once a 3YL is granted, and increasing performance for the purposes of the next renewal. Assessments are done on a case-by-case basis.*

Initial assessment of draft options

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Option 1 High cost Low risk | Option 2  Med cost balanced risk | Option 3 Low cost High risk | Discarded Option Split licence |
| (IO) Supports Innovation and best practice | Not met | Fully met | Partially met | Not met |
| (IO) Class 4 Sector behave responsibly and with integrity | Fully met | Fully met | Partially met | Not met |
| (IO) Improve effectiveness in C4 governance structures, business planning and stability | Fully met | Fully met | Fully met | Not met |
| **Summary of investment objectives** | **Partially met** | **Fully met** | **Partially met** | **Not met** |
| (CSF) Broad C4 stakeholder support | Partially met | Fully met | Fully met | Fully met |
| (CSF) affordable | Partially met | Fully met | Fully met | Not met |
| (CSF) achievable implementation | Fully met | Fully met | Fully met | Not met |
| (CSF) balances the risks | Fully met | Fully met | Partially met | Partially met |
| **Summary of critical success factors** | **Partially met** | **Fully met** | **Partially met** | **Not met** |

### Appendix 7: Sector Technical Reference Group – Terms of Reference

|  |  |  |
| --- | --- | --- |
| Title | Terms of reference | |
| Purpose description | The Department has worked with the Class 4 Working Party to establish the Technical Reference Group. The purpose of the Group is to advise the three year licence project team on the technical feasibility and any related technical issues for societies and clubs of:   * the Department’s preferred best practice expectations and * three design options.   The advice from the Group will ensure feasibility and technical issues have been given appropriate consideration for the upcoming public consultation document and process. | |
| Membership | Bruce Robertson (Chair of Class 4 Working Group), Karen Shea (Southern Trust), Murray Reade (The Lion Foundation), Nick Kouloubrakis (Mainland Foundation), Ross Savage (Youthtown), Mike Knell (NZCT), Lisa Beighton (Porirua Club), Brendan Demchy (Waiheke RSA) | |
| Background | The Gambling Amendment Bill (no 3) passed in 2015. It provides that Class 4 operators and venue licences may be issued for a period of up to 3 years. The licence period is at the discretion of the Secretary with no right of review to the Gambling Commission. The licence criteria have not changed.  The Department’s Report to the Select Committee identified that the objective of a 3-year licence is to allow longer licences as an incentive for ‘best practice’ or ‘highly compliant’ societies. This approach was supported by the Select Committee.  The project makes the following distinctions:   * ‘**best practice’** means the societies and venues share the vision of strong communities and demonstrate practice above and beyond the legislation across the three regulatory system components: trusted and transparent, community benefit, and harm minimisation; and * **highly compliant** means the society and its venues achieves all the legislative requirements (minimum standard) consistently well and proactively work with the Department to address issues as they arise. | |
| Scope | **In-scope**   * Provide technical advice to the Department on:   + technical feasibility;   + implementation implications;   + practicality;   + total up-front and ongoing cost to the sector including sector IT and compliance costs, and   + overall impact of the best practice expectations and design options on the Class 4 Sector including value to societies, venues, and clubs. * Advice is limited to the Department’s proposed best practice expectations and three option designs for the proposed three year licence system;   **Out of scope:**   * formal advice from or consultation with the Class 4 Working Party; * the public consultation and consultation with the Sector – the technical reference group is not a consultative or decision making body. The Department intends to undertake public consultation early in 2017 and continue its engagement with the sector; * the Department’s past or current compliance decisions; * the regular 3-4 year fees review for the C4 Sector; * the Department’s implementation of the 3-year licence system and general operating practice; * the Department’s finance processes required in terms of how the licences are charged; * changes to the Department’s IT systems; * licence decisions and regular monitoring of the 3-year licence standards; and * review of the 3-year licence system and whether it is achieving expected benefits. | |
| **Milestones** |  | |
| **20 January** | **Meeting 1:**   * Technical Reference Group is set up * agreement reached on how we will work together and the terms of reference for the Technical Reference Group * next steps for the project are discussed – aiming for public consultation in March * all material, meeting minutes and actions from the Technical Reference Group will be made transparent to the sector at that time * the Department’s best practice expectations explained * technical implications are advised | |
| **31 January** | **Meeting 2:**   * examples for the best practice expectations are considered * technical implications of examples are advised | |
| **13 February** | **Meeting 3:**   * consideration of examples continued * technical implications of examples are advised * design options are presented | |
| **21 February** | **Meeting 4:**   * design options are considered for implementation implications and costs * technical implications are advised | |
| Deliverables | The technical reference group will deliver:   * technical advice on the Department’s best practice expectations and design options.   The Department will deliver:   * available material on the best practice expectations and design options; * an agreed record of the meetings for later release to the Sector/public | |
| Resources | Technical reference group members will fund their own travel to meetings.  A nominated substitute can attend a meeting, if required, but the substitute must be briefed by the group member.  The Department will provide:   * the meeting venue; * the secretariat function; * written material confidentially distributed ahead of each meeting for the purpose of improving the quality of the technical advice. | |
| Risks and mitigation | **Risk** | **Mitigation** |
| Working with a stakeholder technical reference group has some risks – it might be perceived as:   * targeted consultation; * a decision making body; or * giving those on the group an unfair advantage * not being sufficiently representative of the sector | * have clear terms of reference for the technical reference group that states their advice role; * release minutes and actions from meetings so that the advice provided and the role of the group is transparent; * continue close stakeholder engagement; * undertake public consultation. |
| Success indicators | **Success of the technical reference group would be determined by:**   * **a comprehensive consultation document that is robust and feasible, and** * **the Class 4 sector has a meaningful opportunity to contribute to the best practice expectations and option design.** | |
| Priority | High | |

Approved

Director Gambling Compliance Director Operations Support  
Sponsor Sponsor

Date:

1. Refer to the ‘Full report text [PDF 253k]’ at <https://www.parliament.nz/en/pb/sc/reports/document/51DBSCH_SCR62899_1/gambling-amendment-bill-no-3-216-2> [↑](#footnote-ref-2)
2. More information can be found on this here: <https://www.ict.govt.nz/assets/Guidance-and-Resources/User-guide-for-the-Privacy-Maturity-Assessment-Framework-version-2-0.pdf> - refer to section 4 (starting on page 8) [↑](#footnote-ref-3)
3. A weak or lower rating does not mean that the applicant will not be eligible for a standard (annual) licence [↑](#footnote-ref-4)
4. This rating scale is the State Services Commission Performance Improvement Framework’s Rating Scale. The Department has adopted it for a best practice Licence due to its focus on licence holder improvement and because it captures best practice in its ratings. More information on this can be found in the section “*How did we develop the proposal?*” [↑](#footnote-ref-5)
5. Applicant must be rated at a minimum of ‘Needing Development’ or higher in the remaining sub-categories to be eligible for a best practice licence [↑](#footnote-ref-6)
6. Please note that the ‘Relationships’ category illustrated above is an example only and should not be read as assigning priority to any category over another [↑](#footnote-ref-7)
7. The ‘light touch’ approach for ongoing monitoring recognises that best practice licence holders have demonstrated robust licence holder processes and systems through the assessment process. [↑](#footnote-ref-8)
8. Really responsive regulation recognises that a number of factors influence the behaviour of regulators and regulated parties and ultimately the effectiveness of regulation. To be really responsive, a more sophisticated institutional analysis is required. Regulators need to focus on not just the compliance behaviour of regulated parties but also on the wider aspects of regulatee attitudes and cultures and on the dynamics of the environment in which regulated parties operate. Further, the regulator must be aware of and responsive to its own behaviours, attitudes and culture and to the wider institutional environment in which it operates. [↑](#footnote-ref-9)