Gambling Fact Sheet #23
Class 4 Key Persons & Suitability

Note: While reasonable measures have been taken to ensure the quality and accuracy of the information contained in this Fact Sheet it does not replace information contained in the Gambling Act 2003 or the Racing Act 2003 or any provisions pursuant to these Acts. This Fact Sheet is for general information only and is not a substitute for independent, professional legal or financial advice.

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

The 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 Act defines key persons as:

- In relation to an applicant for, or holder of, a class 4 operator’s licence (i.e. a gaming machine corporate society), a person who:
  - is a trustee or other officer of the corporate society
  - is the chief executive (or performs that function) of the corporate society
  - exercises significant influence in the management of the corporate society
  - is a management services provider (management company) for the corporate society
  - is the chief executive (or performs that function) of a management services provider (management company) for the corporate society
  - exercises significant influence in the management of a management services provider (management company) for the corporate society.

- Significant influence may include but is not limited to:
  - the power to make decisions that would normally be made by the trustees, officers or senior management of the corporate society
  - the power to appoint trustees, officers or senior management or to alter the society’s constitution
  - influencing the grants decision-making process.

- In relation to a class 4 venue licence:
  - a venue manager
  - venue personnel (in general the Department will only check non-management venue personnel when there is evidence suggesting it should do so)
  - a venue operator
  - a person who is a director, shareholder, chief executive or senior manager of a venue operator
  - a person who the Secretary reasonably believes to have 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 and Supply of Alcohol Act 2012:
    - (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.
  - anyone who has the ability, directly or indirectly, to exert a significant influence over the management or operations of a venue operator, except for the above persons holding office, elected, or appointed under the Sale and Supply of Alcohol Act 2012.
Significant interest may include but is not limited to:

- the power to appoint trustees, officers or senior management, or to alter the society’s constitution
- financial or ownership interest in the venue operator company (e.g. a shareholding)
- undertaking responsibilities or duties that would normally be undertaken by the venue manager
- the power to make decisions that would normally be made by the venue manager or the directors, chief executive or senior management of the venue operator.

Significant influence may include, but is not limited to, the power to influence decisions that would normally be undertaken by the venue operator or venue manager.

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 or licence-holder, the venue manager and the venue operator).

A licence-holder must notify the Department of any changes to key persons. New key persons must complete a personal information form. This form enables 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
- Veda database
- Work and Income New Zealand database
- Companies Office databases
- 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 the information 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/gambling