

NATIONAL LOTTERY BILL:

REGULATORY IMPACT ASSESSMENT: DISTRIBUTION

1. Title of Proposal

National Lottery Funding. This Regulatory Impact Assessment (RIA) assesses the impact of the distribution measures included in the National Lottery Bill.

2. Purpose and intended effect

The objectives

The purposes of the distribution measures contained within the Bill are:

- To make the National Lottery more responsive to people's priorities.
- To make the delivery of National Lottery funding more efficient and effective, reducing the number of distributing bodies.

The effect of these measures will achieve these main improvements:

- Increased openness, accessibility and public involvement in the National Lottery.
- Ensure more Lottery money reaches the front line.

Devolution

The UK will retain a UK structure for National Lottery distribution, but the devolved administrations in Scotland, Wales and Northern Ireland will have more influence in setting specific priorities and strategies, taking account of the needs and wishes of local communities and service providers.

The provisions will allow Scottish Ministers, the National Assembly for Wales and the Northern Ireland Department of Culture, Arts and Leisure the power to give directions to the Big Lottery Fund (established by the National Lottery Bill) in relation to devolved expenditure by the Fund; and the functions in relation to the appointment of the Scottish, Welsh and Northern Ireland committees of the Fund established to exercise the Fund's functions in relation to devolved

expenditure. This power can only be exercised with the agreement of the Secretary of State

Background

The 1993 and 1998 National Lottery Acts set down the framework within which the UK Lottery is established. Policy directions made by the Secretary of State for Culture, Media and Sport accompany this legislation. Legislation currently establishes: the areas which are to benefit from the National Lottery, the apportionment of the National Lottery Distribution Fund (NLDF) between these good causes, provisions for payments from the NLDF in respect of expenses and for investment of the funds, provisions for governing the licensing of the operator, powers of the Secretary of State and the number and form of distributing bodies.

Previous consultation has demonstrated that there is a desire to see changes to the way Lottery money is distributed. Although the system of Lottery distribution is fundamentally sound, there do remain some areas that could be further developed, and given that the current license period comes to an end in 2009 now seems to be the right time for such reforms.

There is a need to modernise Lottery distribution, in order to ensure that it continues to maximise the benefits these funds offer to the good causes. By streamlining the application process, funds will become more accessible to those organisations that need them.

The Government feels that change to this legislation is necessary in order to solve the current problems with the distributing system. Crucial changes to streamline, transform and innovate the system all require legislation. This includes primarily the creation of a new distributor, the Big Lottery Fund, to take over the functions currently exercised by the Community Fund, the New Opportunities Fund and the Millennium Commission, but also the enabling of all distributors to be able to distribute non-Lottery funds; the setting up of a permanent National Lottery Promotions Unit; allowing interest on balances held in the NLDF to be allocated according to the standard percentage split between good causes; and to create a reserve power to reduce excessive distributor balances and reallocate them to a body named, by order, by the Secretary of State to distribute within the same good cause.

These proposals are a response to a consultation – *Review of Lottery Funding* – carried out in July 2002 and details were first announced in the *National Lottery Funding Decision Document* published in July 2003.

Risk Assessment –

If the present system is not revised, for example by improving efficiency, simplicity and transparency, we run the risk of losing the potential to maximise the Lottery funds available to good causes. Worldwide experience of lotteries in similar conditions to the UK is that public interest and ticket sales decline from an early peak. There had been a gentle decline in ticket sale levels, though more recently they have been stable and even shown increases. We feel some updating of the system is necessary. Increased joined-up working by the distributing bodies coupled with increased public involvement will curb the potential for Lottery income decline. The ultimate risk of not having this will be that less money will be available for the good causes and this will have a detrimental effect on those groups wishing to benefit from National Lottery funding.

The Government has also considered the potential risk that our proposed action might fail. We consider this risk to be very slight, particularly given the current efforts made by the distributing bodies to address some of the inefficiencies in the system.

3. Options

Three options exist:

Option 1: *Do nothing – rely on existing legislation*

There is the option to do nothing and rely on existing legislation and current practices. However, we have already recognised that current practices and existing legislation are not effectively delivering Lottery funding in the most efficient way possible. This option has been rejected therefore.

Option 2: *Take forward proposals without legislation*

Another option would be to seek to limit the achievement of the objectives to those elements possible without legislating.

The administrative merger of the Community Fund and the New Opportunities Fund has taken place, and the Big Lottery Fund was launched in June 2004. Work on developing the funding streams for the Big Lottery Fund is well underway, which includes a widespread public consultation. Without legislation this will have to continue as three separate funds without the full benefits or savings.

The National Lottery Promotions Unit has been temporarily established and funded through the current Lottery operator, Camelot. The Unit is already working with the Lottery distributing bodies, the DCMS, Camelot and the National Lottery Commission to increase public awareness of the Lottery. The Unit has also progressed work on developing common branding and prepared a National Lottery Day. The rollout of blue plaques and specific pilot projects to raise public awareness are also well under way. But without legislation it cannot be permanent or have a dedicated funding stream for its programmes and work plan.

The Lottery Forum has been established and has already embarked on a programme of work, including implementing a common complaints procedure and a shared customer service charter across all UK and England Lottery distributors, and in identifying new and exciting ways in involving the public in consultation and decision-making.

The DCMS has also already implemented some of these non-legislative proposals by issuing new guidance to the Lottery distributors on managing their NLDF balances and issuing new financial directions to the distributing bodies.

We did initially consider whether we could deliver the proposals through a Regulatory Reform Order (RRO). An initial full legal analysis of the prospects of delivering our proposals by this means was undertaken. However, whilst it was apparent that an RRO could be used to deliver the majority of our reforms, two of the most important proposals could not be delivered by this mechanism.

The proposal allowing the new distributor to handle non-Lottery funds lies out of the control of the Regulatory Reform Act (RRA) powers. Allowing the distributor to receive, hold, and distribute non-Lottery funds is an important element in our overall proposals for reform of Lottery distribution. The proposal was included in the *National Lottery Funding Decision Document* and was largely supported in consultation responses.

Secondly, the creation of a new order making power to allow the Government to focus and direct the funding of the new distributor would also fall outside the RRA powers. One of our key objectives for the new distributor is to move to a less prescriptive means of focusing and directing its funding and so we are seeking legislative provisions which allow us maximum flexibility in operating control mechanisms, through a combination of statutory instruments and directions.

Option 3: Introduce a Bill to set up a new distributor and implement ways to create more joined-up working

The Bill will achieve the following:

- Abolish three public bodies – the Community Fund, the New Opportunities Fund and the Millennium Commission.
- Set up one new distributor, the Big Lottery Fund.
- Establish a new good cause to reflect the functions of the Big Lottery Fund.
- Enable all Lottery distributors to consult and to take into account the views of members of the public in making distribution decisions.
- Enable the Big Lottery Fund to handle non-Lottery funds.
- Enable the Big Lottery Fund to provide advice on all distribution matters.
- Enable all Lottery distributors to promote the National Lottery as a whole.
- Reform the current provisions for the allocation of interest arising from the investment of undistributed funds held in the National Lottery Distribution Fund and to confer on the Secretary of State the power, by order, to reallocate amounts held for particular distributors in the National Lottery Distribution Fund.

The proposals will modernise the way Lottery money is distributed. It will bring about legislative and non-legislative reforms to streamline processes, reform grants, increase efficiencies and encourage innovation. This will carry long term benefit to many groups; including distributing bodies, charities, voluntary organisations, Lottery players and communities.

If our proposed legislation was not enacted, the full benefits of the merger between the New Opportunities Fund, the Community Fund and the Millennium Commission could not be realised. We would be unable to deliver our intentions to modernise the delivery of Lottery funding by providing a responsive and streamlined source of funding through the mechanism of one distributing body. The Big Lottery Fund would be forced to operate using three different boards, one of which would demand the involvement of government Ministers and this would maintain the high level of

bureaucracy currently involved in the operation of three individual funds, including preparation of three separate sets of accounts each year.

We recommend that Option 3 should be taken.

4. Benefits –

Option 1:

There would be little perceived benefit in leaving the current form of Lottery distribution unchanged. Various consultation exercises undertaken by the Government have highlighted the need for improvement in the way Lottery money is distributed. To ignore this need and make no change to this system would certainly be a missed opportunity, and would leave many of those seeking to apply for Lottery funding disadvantaged.

Option 2:

Taking forward proposals without legislation would have limited benefit. Whilst some of the proposals can and will be implemented without legislation some of the necessary changes, for example the proper merging of the Community Fund, the New Opportunities Fund and the Millennium Commission will require legislation. Furthermore the impact of the proposals would be limited if restricted to non-legislative change. Progressing with only the non-legislative changes would mean that the full financial benefits of the merger would not be realized.

Option 3:

It is the Government's view that the proposals in the Bill will offer benefit to the voluntary sector and charities seeking Lottery funding. Broadly, the proposals will create a more streamlined and simplified way for communities to access Lottery funding. Distributors too will benefit from the efficiency savings brought on by the changes. These proposals will also ensure that the Lottery can provide large transformational funding and encourage innovation. **Potential recipients of Lottery funding** will benefit from the increasingly joined up nature of the distributors' work. Funds will be easier to access; primarily because of the proposals to create increased joined up work. This will be facilitated in particular by the existence of a single community distributor, a formalised Lottery Forum and a Joint Promotional Unit.

The Lottery distributors too will reap the benefits of joined up working, for example through the potential to cut administrative costs and the ability to pool resources in order to maximise the capacity for achieving large joined up projects. In particular, we anticipate that there will be significant administrative savings from the replacement of three distributors, the Community Fund, the New Opportunities Fund and the Millennium Commission with the Big Lottery Fund. We expect that the merger will realise efficiency savings of between 10 and 20% of running costs year on year by having one distributor instead of three. This equates to a saving of between £6 million and £12 million per annum, sums which would be used in Lottery funding to benefit good causes. The exact savings will depend on the way the Big Lottery Fund reviews its functions.

The proposal to give distributors the ability to distribute non-Lottery funds will bring some benefits to charities and voluntary organisations, who will have the opportunity to maximise the benefits of Lottery funding by combining it with other funding streams.

Lottery players and the public will benefit from having greater input into how Lottery money is spent; for example by becoming involved in decisions about major capital projects or participating in schemes to determine local priorities. The National Lottery Promotions Unit has undertaken research which shows a high degree of support for public involvement.

Business sectors affected We have consulted widely on these proposals and had lengthy discussions with a variety of stakeholders. The Small Business Service felt unable to comment on our proposals and the Government is of the view that that these proposals will have very little negative effect on small businesses, voluntary and charitable organisations. However, voluntary organisations, charities, local Government, the distributing bodies, Lottery ticket buyers, Lottery retailers, the Lottery operator and the community as a whole will all benefit from the proposals. We also believe that there will be benefits for small local firms as a result of our proposals, as they should benefit from the increased opportunities available from the streamlined access to Lottery grants.

5. Costs

Economic

We do not believe there will be any costs arising from these legislative proposals. We specifically asked stakeholders, in consultation, if they were able to identify any costs they might incur from the proposed legislation. None were identified.

The Big Lottery Fund has identified one-off merger costs of £4.1 million arising from the administrative merger and £4.6 million arising from the development of new grant giving activities (programmes for veterans, the Young People's Fund and

micro grants). These costs would be incurred even without the legislation and will be by far offset by the savings of 10-20% per annum identified above.

The provision for a simpler, clearer method of dividing investment income between distributors, encouraging lower unspent balances, will result in a slight reduction of interest available to distributors. The setting up of this provision has been discussed with the Commissioners for the Reduction of the National Debt and is expected to result in only de minimis costs.

Environmental and social

We do not believe there will be any environmental or social costs arising from these legislative proposals.

Equity and Fairness

There are no perceived issues of equity and fairness.

6. Consultation with small business: the Small Firms' Impact Test

The proposals are designed to improve the efficiency of National Lottery distribution and small businesses are not directly involved in the distribution of Lottery funds. As part of our initial soundings the consultation was circulated widely amongst those with an interest in the distribution of Lottery funds with a nil response. We have not been able to identify any disproportionate impact on small firms as a result of the policy proposals and as a result we do not intend to carry out stage one of the Small Firms Impact Test. We have met representatives of the Small Business Service who have confirmed that there is unlikely to be a disproportionate impact on small firms and they have agreed that there is no requirement to carry out stage one of the test. Should any so far unseen impact or other unintended consequences be identified during this consultation the position will be reviewed and the Small Business Service informed.

Voluntary organisations, charities, local Government, the distributing bodies, Lottery ticket buyers, Lottery retailers, the Lottery operator and the community as a whole will all benefit from the proposals. We also believe that there will be benefits for small local firms as a result of our proposals, as they should benefit from the increased opportunities available arising from the streamlined access to Lottery grants

7. Competition Assessment

We have looked closely at the market for the distribution of charitable funds and our view is that our proposal to allow the new distributing body to handle non-National Lottery funds will not have an impact on the current market provision.

8. Enforcement and Sanctions

These proposals will be enforced by legislation and backed up by powers given to the Secretary of State for Culture, Media and Sport. The legislation will not impose criminal sanctions for non-compliance.

9. Monitoring and review

We will monitor and review these proposals in advance of the next Lottery licence period, which begins in 2009.

10. Consultation

i) Within government

Home Office

HM Treasury
Scottish Executive
Welsh Assembly Government
Department for Trade and Industry
Office of the Deputy Prime Minister

Department of Culture, Arts and Leisure Northern Ireland

ii) Public Consultation

In developing this document we have taken account of the responses received to the public consultation, which was conducted on the proposals set out in the *National Lottery Funding Decision Document*, which was published on 3 July 2003. These proposals were subject to 12 weeks consultation. We received 240 substantive responses from a wide range of organisations, including local authorities, charities and voluntary groups, individual members of the public and Lottery distributors. A summary of the consultation responses was published on the DCMS website at: http://www.culture.gov.uk/national_lottery/QuickLinks/consultations

We have also taken account of responses to a consultation of key stakeholders on draft illustrative clauses which took place between August and October 2004.

There was some concern that the proposal for a power, by order, to reallocate funds from one distributor to another might put long-term projects at risk. Although the power would only be for use as a last resort, we believe the risk to be outweighed by the potential to increase the funds which can be spent more quickly on good causes.

Voluntary Sector Consultation

Representatives from the National Council for Voluntary Organisations, the Wales Council for Voluntary Action, the Northern Ireland Council for Voluntary Action and the Scottish Council for Voluntary Action attended a seminar on the proposed legislation on 4 October 2004. Their comments related, principally, to the drafting of powers of order and direction. Ministers have considered these and an amendment has been made to the Bill to remove a power to direct the Big Lottery Fund that specified amounts should be spent on specified programmes of expenditure. We had asked the voluntary sector representatives for any indications of any costs likely to arise for them as a result of the legislation but they did not raise any.

Small Business Service

We have met representatives of the Small Business Service who have confirmed that there is unlikely to be a disproportionate impact on small firms and they have agreed that there is no requirement to carry out stage one of the test.

11. Summary and recommendation

Option	Total cost per annum Economic, environmental, social	Total benefit per annum Economic, environmental, social
1 Do nothing – rely on existing legislation	The opportunity for a greater proportion of Lottery money to be spent on good causes and to make it easier for potential applicants to access Lottery funds will be lost	Nil
2 Take forward proposals without legislation	£9 million one-off administrative merger costs for the Big Lottery Fund	Some benefits from the administrative merger of three distributors to form the Big Lottery Fund
3 Introduce a Bill to set up a new distributor and implement ways to create more joined up working	£9 million one-off administrative merger costs for the Big Lottery Fund	Efficiency savings of between 10 and 20% per annum by the Big Lottery Fund once full merger is in place

12. Declaration

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

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