





Guidance Document

Change of Shareholder or Beneficial Owner

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2		

Introduction

This guidance note aims to provide Licence Holders with a clear outline of the expected requirements and procedures with regard to shareholder or beneficial ownership changes.

Shareholder or beneficial ownership change considerations comprise several elements, including the documentation provided, the quality of evidence, along with ensuring that the rationale, commerciality, and plausibility of the transaction are understood.

The GSC also applies integrity checks to the people that own or control gambling operators in order to restrict licences to individuals and companies that meet the GSC's fitness and propriety standards and will take account of all the information provided in relation to the change when making a determination.

What are the requirements for change of Shareholder or Beneficial Owner?

Under section 12 of the Online Gambling Regulation Act 2001 (OGRA), Licence Holders are required to notify the Commissioners of any change in the beneficial ownership of more than 5% of the share capital, or of any class of share capital, in the licensed entity.

Licence conditions also require that persons do not assume or increase ownership of the licensed company, directly or via other holdings or arrangements, unless:-

- The ownership of that person (or those persons acting in concert) afterwards is 5 percent or less of the licensed company; or
- The licensee has obtained the written permission that no Commission approval is required; or
- The ownership of that person (or those persons acting in concert) has been approved by the Commission; or
- The licensee has obtained the written permission to change ownership prior to the Commission's approval.

What constitutes a change?

OGRA 2001 prescribes "beneficial owner", in relation to a share the beneficial ownership of which is vested in a body corporate (other than a quoted company), means an individual who, whether directly or indirectly, through the holding of, or interests in, a share or shares in that or another body corporate or other bodies corporate, is ultimately interested beneficially in the share in question.

Shareholder changes that do not result in a change in the ultimate beneficial ownership of a licence holder will still need to be notified to the GSC with the appropriate corporate documentation to evidence that there is no change in beneficial ownership.

The GSC operate a separate policy for quoted PLC's where the approval threshold is triggered at 20%. Please contact the general supervision team on GSCGeneralSupervision@gov.im for further guidance should you have a query in this area.

While under 5% shareholders do not require approval, the Commission will seek to understand the full beneficial ownership of a licence holder and as such, information on these parties will be sought.

The GSC will also use this information to determine if any concert parties need to be considered as passing the 5% threshold.

The notification process

A formal written notification should be sent to the GSC prior to any change in shareholding. The notification should include the rationale for the change, an overview of the parties involved, along with a diagram outlining all current and proposed shareholding, including natural and legal persons.

This document outlines the information that would ordinarily be expected to accompany a notification of a change of shareholders, but Licence Holders should be prepared to provide any other documentation required to support the transaction and rationale.

Documentation to be provided

Forms

- A Personal Declaration Form (PDF) with supporting documents for any natural persons whose ownership is proposed to exceed 5%;
- A Simplified Personal Declaration Form (SPDF) with supporting documents for any natural persons whose ownership is proposed to equate to 5% or less;
- Details of the Ultimate Parent Company (UPC) Form (where there is a change in corporate control); and
- A SPDF for the Directors of the UPC and any companies in between the UPC and License Holder.

Structure diagrams

This document must list all individuals and companies in the Licence Holder.

If the Licensee has joined a group due to changes in beneficial ownership, a group structure diagram must be provided, detailing all entities within the group and identifying all parent undertakings of the Licensee.

Additionally, if the management structure has been altered due to the new controller, a management structure diagram should be included.

Legal Entities

Limited companies

The following are required, at a minimum, for limited companies that will become a part of the new ownership structure or that are of significance to the transaction:

- Articles of association;
- Memorandum of association;
- Certificate of incorporation;
- Register of shareholders;
- Register of Directors; and
- SPDF for the Directors.

Trusts

The following are needed, at a minimum, for trusts that will become a part of the new ownership structure or that are of significance to the transaction:

- A copy of the trust deed, and any addendums
- A copy of the letter of wishes

Trust beneficiaries

Where a trust holds an interest in a Licence Holder of more than 5%, the GSC will request a PDF from all beneficiaries of that trust.

Where a trust holds an interest in a Licence Holder that equate to or is less than 5%, the GSC will request a SPDF from all beneficiaries of that trust

Trustees

We require a PDF from all Trustees where the Trust's interest in the licensee equates to more than 5%.

In the case of the Trustee being a company, we require a PDF from the person or people in that company who have lead responsibility for matters relating to the Trust. A corporate trustee would also need to provide the document required limited companies, listed above.

If the Trust's interest in the licensee equates to less than 5%, we require an SPDF from all Trustees.

Enforcer or Protector

People undertaking the role of enforcer or protector will be required to provide a PDF.

Business plan

If the change of ownership will impact the proposed activities of a Licence Holder, then a new business plan will be required.

Source of funding evidence

Evidence of the individual's source of funds will depend on what the source of funds is, however, examples include bank statements and investment portfolio statements.

Typically for established entities the latest set of filed financial statements can be sufficient evidence. For recently established entities, evidence of how the entity has been funded is required.

A clear explanation of the documents provided to support the above will be required.

Purchase price evidence

A clear explanation of any documents provided to support the purchase price will be required.

Financial projections

Revised financial projections will be required if the ongoing funding of the business is changing. The extent of the investment into the licence holder will need to be understood where SOF and SOW checks will be necessary.

Details of other licences

If the beneficial owner or entity in the ownership chain is licenced in another jurisdiction then the details should be provided as a part of the notification process.

The approval process

Unless otherwise agreed with the GSC, approval from the Commission is required for new beneficial owners of more than 5%. The Commission's involvement will not generally be required for beneficial owners of 5% or less.

When satisfactory checks have been undertaken on the fitness and propriety of the proposed new beneficial owner, the rationale along with the commerciality and plausibility of the transaction is understood, a hearing with the Commission will be scheduled for the grant of approval.

Assuming that there have been no delays with the process, the hearing will usually be held within 8-12 weeks. Delays will usually be experienced where incomplete information or documentation is received in response to the GSCs queries.

In person attendance will ordinarily be expected by the proposed new beneficial owner. If in person attendance is not possible, then the hearing may be deferred until a later date.

Once the hearing has been concluded the Licence Holder will receive a notification regarding the outcome of the hearing.

When approval has been received, the GSC will require that the ownership change is evidenced.