

# A chance to give

How lotteries for charities and good causes could raise more money, but regulation is holding them back

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# Executive Summary

## Highlights and key issues of using lotteries to raise money for charities

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### The impact and importance of lotteries for charities

#### Charities believe that lottery regulations increase their costs and hold them back from raising money

In all sorts of ways, the current lottery regulations make fundraising from lotteries more difficult and more expensive. The bureaucracy to register a lottery is greater than that of starting a charity. The need to have a guaranteed minimum contribution to the charitable cause makes some types of lottery too risky. In our survey, nearly 50% of respondents agreed that lotteries are more regulated than any other form of fundraising, with less than 5% disagreeing. Similarly, 25% of respondents agreed that the regulations drove up costs and only 7% disagreed (the rest didn't express a view).

#### Charities find that lottery income has grown despite the recession

Charities in our survey were four times more likely to agree (41%) that lotteries had grown over the past two years than to disagree (9%). In the same vein, our research found that charities were nearly ten times more likely to say that they think lotteries will grow over the coming two years (32%) than shrink (4%). This positive aspect of lottery fundraising is backed by our anecdotal evidence, where numerous charities have told us how strongly lotteries have continued to perform despite the financial crisis.

#### Charities find that lotteries reach new and different donors

Lotteries are **not** like any other form of fundraising, just more expensive and more regulated. This is because they reach many people that other forms of fundraising don't – 46% of our respondents agreed that lotteries appeal to a certain kind of donor and less than 5% disagreed. Equally important, and what we hear is a change to recent years, is that many lottery ticket buyers (but not all) often give in others ways as well. That's what our survey told us. Anecdotally,

we heard of one charity that got 45% of its legacies from people who first give as lottery ticket buyers.

## The current regulations

### Charities have to make a minimum profit of 20% from each and every lottery

So what are these regulations that hold charities back? We highlight three problems with legislation here, with the first and the most universally cited being the 80/20 rule, more formally called the minimum contribution requirement. Put simply, every lottery a charity runs, or is run on its behalf, has to make a minimum contribution to the 'cause' of 20p for every £1 in ticket sales. The 20p in the £1 cannot be averaged over the year, so recruiting new lottery buyers and doing anything innovative is very, very difficult. Starting a new lottery from scratch requires real creativity and a very popular cause, or a sugar daddy funder who will bankroll the costs.

### Charities are capped in how much money they can raise from lotteries

Charities are not allowed to raise more than £10 million a year from lotteries. They are not allowed to run a single lottery raising more than £4 million and the prize money they can give is also limited. All of these constraints make it harder for a (large) charity to use lotteries to grow their voluntary income and to increase their independence.

### Organisations and individuals have to fill in the same forms to run a lottery as you'd need to run a casino

The threshold for registering with the Gambling Commission is either running one lottery of more than £20,000 or having a total across the year of more than £250,000. Below that threshold, lotteries are regulated by the local authority.

The forms that charities have to fill in to run a lottery are very long, nearly 50 pages in total. The Gambling Commission asks for a great deal of financial information to meet the regulation requirements because the forms for running a lottery are the same as those for running a casino. Due to the fact that the regulator is understandably worried about the integrity and honesty of the people who will be running casinos, they use forms that are very detailed and very complicated. However, this means that the forms needed to run a charity lottery are longer than those needed to start a charity in the first place.

Just to keep charities on their toes, if a charity wants to run a lottery both online and on paper, there are yet more regulations. They need to register their lottery twice; once for remote lottery operations (e.g. online and telephone) and once for non-remote (e.g. paper – we're not quite sure why mailing somebody with tickets is non-remote). So this also adds to the volume of paperwork and bureaucracy in running a charity lottery.

## The public and lotteries

### The public don't believe that charity lotteries should be capped in size or held back

In our research with the general public, which was carried out for this report in March 2012, the public's views are clear. Nearly half (46%) oppose the capping of the size of prizes in charity lotteries and over half (57%) think that charity lotteries ought to be able to compete with the National Lottery and the Health Lottery. Two thirds (68%) are opposed to capping the number of tickets that can be sold in a charity lottery.

### One in five of the population have bought a charity lottery ticket in the last month

Our research with the public also showed that 21% of the public say they have bought a charity lottery ticket in the last month. In comparison, 12% say they have bought a Health Lottery ticket and 54% say they have bought a National Lottery ticket in the last month.

## The politics of lottery regulation

### The National Lottery is nearly 100 times bigger than its nearest competitor

It is predicted the National Lottery will have an annual income of around £6.5 billion in 2013/4. This has grown over the last few years from around £5.5 billion. So the total income of the National Lottery is 650 times bigger than the cap of £10 million for an individual charity lottery. It is also around 80-100 times bigger than the annual income of the multiple society lotteries of the Health Lottery. The annual income of all the charity lotteries is around £300 million. Regulation, then, does a pretty good job of making sure that the National Lottery is the monopoly supplier.

## The regulatory burden on charity lotteries is threefold

Charity lotteries have three 'sources' for their regulation. The first is the regulation that comes from the desire to make sure that 'gambling is safe and fair for all', which is the strapline of the main regulator, the Gambling Commission. It's worth pointing out the Commission's own research shows that the amount of problem gambling with charity lotteries is somewhere between miniscule and non-existent.

The second source of regulation comes from the desire to stop charity lotteries competing with the National Lottery, hence the cap on turnover and prize pots.

The third source of regulation comes from the desire to protect consumers, which is where the minimum percentage contribution probably comes from (though no other form of fundraising has anything resembling this type of regulatory restriction). It's little wonder that charities say running a lottery is highly regulated.

## Giving through a charity lottery is not tax-effective

Buying lottery tickets is not tax-effective in the way that a straight donation to charity is. This is because HMRC guidelines state that a donor is not allowed to receive a benefit of more than 25% of the value of their donation. This means that charities that are growing their base of supporters and voluntary income are doing so without the benefit of gift aid. There is an irony in that while the government is cutting its grants and contracts to charities and trying to encourage tax-effective giving, one of the most successful forms of fundraising is not tax-effective. It's sad and inconsistent really.

# Creating the win/win for good cause lotteries

## The goal of all lottery regulation should be to maximise income for good causes

At the moment, a win/lose myth has been created. When the National Lottery was created, politicians argued that charity lotteries needed to be suppressed so that the National Lottery could flourish. Politicians also argue now that if the Health Lottery is successful then the National Lottery is losing out. We think we need to search for a win/win regulatory culture for charity lotteries and a goal that aims to maximise the amount of money raised for good causes. The National Lottery raises amazing amounts of precious funds for good causes, but so do charity lotteries and we should celebrate that. We need to look for ways that the total amount raised for good causes can be increased.

### Keep the 80/20 rule, but average it out over three years

The 80/20 rule is the single biggest regulatory bugbear of charities in our research. However, most don't want to do away with it, just to loosen the straightjacket somewhat. Our suggestion is that charity lotteries should have an average minimum contribution of 20% over a 3 year period. This isn't ideal and would still prevent some charities growing their lotteries, but it would stop the situation where a charity cannot recruit new buyers because every single lottery has to have a contribution of 20%. It would also allow new entrants to start with 0% contribution and aim for the average over a 3 year period.

### Let lottery ticket purchases qualify for gift aid

Making charity lottery ticket purchases eligible for gift aid would have a huge impact on the financial aspects of running a lottery. We suggest regulation could be that the prize pot of the lottery could be less than 25% of the total turnover, collectively keeping in line with HMRC regulations. Alternatively, once the prize has been drawn, the tickets of those people who didn't win prizes could be eligible for gift aid.

### Make it easier to register and run a charity lottery

We think it could be made much easier to register and run charity lotteries. First of all, we don't think society lotteries should have the same forms and the same diligence as casinos and bingo halls. Second, we think one registration for all types of lottery – telephone, paper or online – would reduce bureaucracy. We also think that having to register with the Gambling Commission, with all the additional bureaucracy, for one lottery a year of £20,000 is disproportionate. At the other end of the scale, we can see no need for the turnover and prize caps on lotteries, given that all charity lotteries are so much smaller than the National Lottery.

### Make lottery regulation proportionate to lottery size

Our final proposal is that regulation should be proportionate to the size of the lottery. At the moment, charity lotteries have the worst of all worlds. They are pegged down in size by the £10 million cap and the 80/20 rule while trying to stay relevant against a National Lottery which dominates the airwaves and can offer top prizes not in the thousands or hundreds, but in the millions. If the government wants to ensure that the National Lottery remains the dominant lottery force, then only those lotteries which are at a size to compete with the National Lottery should be forced to have the same minimum contribution levels. We suggest that charities with a turnover of more than £1 **billion** could be subject to the same minimum contribution requirements as the National Lottery. At the other end of the scale, the smallest lotteries should have the least regulation and the regulatory burden should increase proportionally with size from there.

## Section 1: Introduction

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The publication of this report has been driven by three factors: passion, necessity and frustration. We have a passion for the potential that lotteries<sup>1</sup> have in engaging new audiences for charities<sup>2</sup> and we know that charities need new ways to fund their vital work. Our frustration<sup>3</sup> is that in a breadth of ways, charities' attempts to raise money using lotteries are held back by regulation and legislation.

This report is designed to fulfil a number of objectives:

- 🌀 First, we want to set out the current situation with regard to how both charities and the public see lotteries.
- 🌀 Secondly, we want to set out the key areas, based on our research and consultation with charities, where regulation affects raising money through lotteries.
- 🌀 Lastly, we want to set out a variety of ways in which we think lotteries could raise more money for good causes.

It is fair to say that lottery deregulation for charities has been an issue for decades. While the 2005 act made some improvements, lotteries are still highly regulated. As charities have got more professional in their approach to fundraising, they have sought out more diverse ways of raising money. Lotteries have been a staple part of the fundraising scene for years. Over the last decade, charities have taken some of the most effective fundraising mechanisms such as direct debits, direct mail and door-to-door recruitment and blended them with lotteries to create new hybrid income streams. Indeed, one constant theme from the fundraising community over the last five years is how strongly lotteries have performed since the beginning of the financial crisis in 2008. While other techniques have waxed and waned, lotteries have carried on bringing in the money.

Yet, lotteries are without exception the single most regulated part of fundraising. Not one, but two Gambling Commission licences are needed to run a lottery online and on paper. Every single lottery has to return a minimum contribution of 20% to the good cause (the 80:20 rule), even those lotteries recruiting new supporters. The individuals who run a charity's lotteries have to go through a level of scrutiny greater than that to start a charity and identical to those people

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<sup>1</sup> Legally called society lotteries. We also tend to call them charity lotteries. People sometimes talk about raffles, as do we. In the eyes of the regulation they are the same as society lotteries.

<sup>2</sup> We use the term charities throughout this report to mean all organisations who might raise money for good causes

<sup>3</sup> This report is paid for by.....nfpSynergy. No external body has contributed any funding to this report. Many people have contributed their views, we are pleased to say.



who want to run a casino. The amount of money that a charity can raise is capped both across the year and for any one individual lottery. We could go on. Indeed, we do in later sections.

The report is divided into a number of sections:

Section 1, this section, is the introduction and outlines our report.

Section 2 looks at the results from our survey amongst charities, focussing on how their lotteries are performing and the impact of regulations.

Section 3 is about the results of our survey amongst the general public, looking at their lottery playing habits and their perceptions of whether the current restrictions on charity lotteries make sense.

Section 4 outlines the consultation we carried out on society lotteries and how people responded to it.

Section 5 sets out the key issues as we see them

and Section 6 is our case and recommendations for deregulation and reform.

There are also a number of 'boxes' throughout the report showing how different organisations use lotteries and other games of chance. In the appendices, there is some information about the key organisations in the world of charity lotteries and some of our methodology for researching the report.

### Box 1: top tips to make lotteries work hard and comply with the regulation

Here are some ways charities have made their lotteries work harder that we were told about in the course of our research:

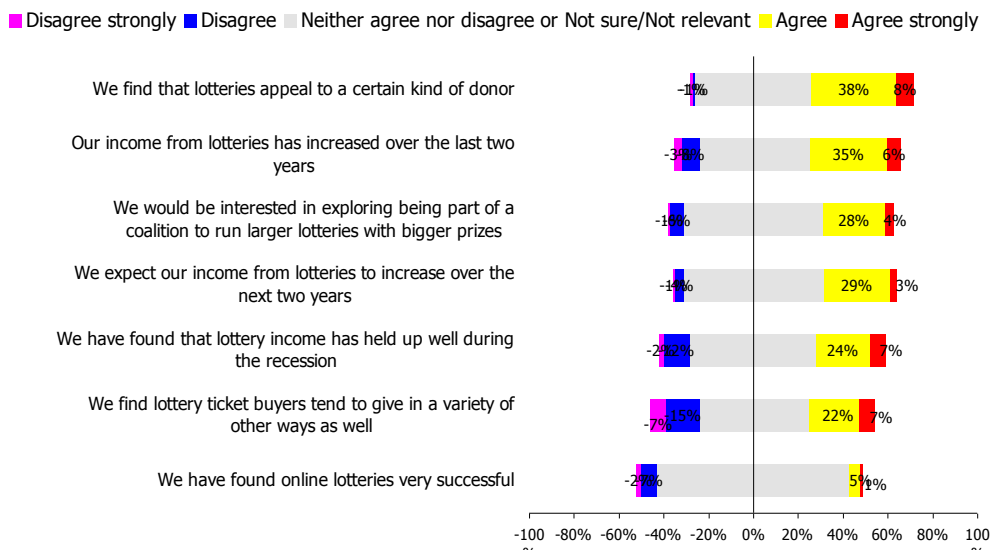
- Send out the lottery tickets with a magazine. This reduces the 'direct' costs attributable to the lottery to a minimum
- If a lottery gets donations along with the ticket purchases, allocate the lottery costs to both ticket purchases and donations. So, if £1000 of tickets were sold and £500 of donations raised then a third of the lottery costs could be allocated to donations
- Talk to the Gambling Commission about allocating the costs of lottery player recruitment over the lifetime of the lottery players, rather than just the lottery through which they were recruited
- If you work with an external lottery manager (ELM), ask if they can spread their costs across a number of their invoices, or create a payment arrangement which allows them to do this. This will help put your costs against the most successful lotteries or against all of them equally.
- Recruit new lottery players through a prize draw to attract those people who like to give through 'games of chance' (see the separate box on this)
- Start a weekly subscription lottery with players buying tickets by direct debit. Of all the approaches we have heard about, this appears to be the most successful (see the separate box on this)

## Section 2: Charities' experience of lotteries and their regulation

In any analysis of the potential and the practice of how effective lotteries are as fundraising tools, the views of fundraisers are paramount. In 2011, we carried out a survey with charities to find out what their experience of lotteries was.

Chart 1 shows the overall experience of the 180 or so respondents to our survey and the value of lotteries to them as a fundraising tool. The more **yellow** and **red** there is on a bar the more agreement there is, whereas the more **blue** and **pink**, the more disagreement (grey is neither agree nor disagree or not relevant).

**Chart 1: income trends and experience for society lotteries**



"Please state to what degree you agree/disagree with the statements below " **Ranked by Agree strongly/Agree**

Base: 181 participants  
Source: Jun 11, nfpSynergy

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There are several relevant points to note from chart 1. Lotteries tend to reach a different kind of donor (46% agree or strongly agree) and lottery income has increased over the last two years (41% agreement overall). This is expected to increase over the next 2 years (32% agreement) and lottery income is found to have held up well during the recession (31% agreement vs. 14% disagreement). Equally interesting is that while many respondents find buyers of lottery tickets do tend to give in other ways (29% agreement), a substantial chunk of respondents find lottery buyers tend to stick just to lotteries (22% agreement).

One high level of consensus is over the lack of success of online lotteries, with only 6% agreeing they have been successful. This is not because large numbers disagree (only 9% did), but because most had no view, presumably because many of them hadn't tried them.

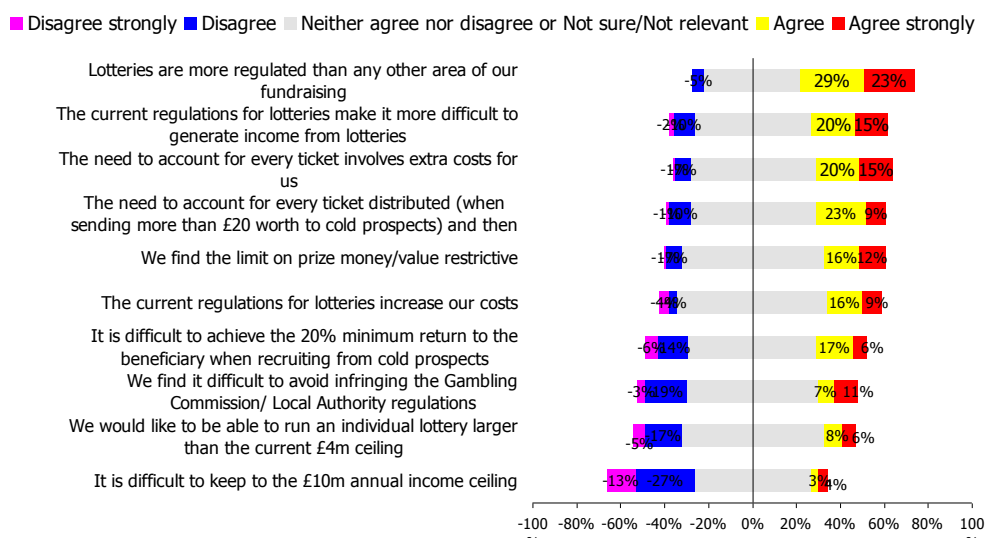
We also asked respondents for their views on how regulations impact on their running of lotteries. Chart 2 shows the range of agreement and disagreement with the questions we asked.

The highest level of agreement was with the statement that 'lotteries are more regulated than any other area of fundraising', with 62% agreement overall. The next highest was for the statement 'the current regulations make it more difficult for us to generate income from lotteries', with 35% agreement and 12% disagreement.

Cost and profitability does appear to be an issue. A significant number of charities, 25%, said that the regulations 'increase costs' and 23% agreed that the need for a minimum return of 20% is difficult to achieve (though 20% disagreed with this statement).

The other interesting findings from chart 2 are that only a limited number of charities feel restricted by either the annual lottery income ceiling of £10 million (14% agreement) or the individual lottery size limit of £4 million (7% agreement).

### Chart 2: charity experience of society lotteries



"How does lottery regulation and administration affect your charity? How does lottery regulation and administration affect your charity?" **Ranked by Agree strongly/Agree**

Base: 181 participants  
Source: Jun 11, nfpSynergy

## The size and scope of charity lotteries

We also asked respondents to give us an indication of the size and scope of their lottery activities. This shows that for most of our respondents, lotteries are relatively small-scale fundraisers.

## The amount of money raised from ticket sales

Over half of respondents (54%) raised less than £50k a year from ticket sales<sup>4</sup>, with a further 24% raising between £51k and £1 million a year. 10% raised more than £1 million a year, with 6% of those raising more than £4 million.

## The amount of money raised from donated income with tickets

Nearly two thirds of respondents (62%) raised less than £25k from donations with tickets. 13% raised between £26k and £100k in donations, with a total of 7% raising £100k or more, while 17% said they didn't know. A total of 155 people answered the question.

## The number of people taking part in lotteries

The vast majority of respondents (69%) had less than 10,000 people taking part in their lottery each year. An impressive 21% of respondents had between 10,000 and 50,000 a year, but just 5% had more than 50,000.

## The number of lotteries each year

Again, the bulk of respondents only run a small number of lotteries. 57% of respondents run 1 or 2 lotteries each year and 20% run 3 to 5. Just 23% have 6 or more lotteries a year (though just 109 people answered this question) and 15% of those run 26 or more lotteries, which presumably means they are running a weekly draw.

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<sup>4</sup> The full set of slides is available on request. Answers based on 157 responses and 12% don't know.

## Box 2: how prize draws are an alternative to lotteries

The biggest challenge presented by the 80:20 rule is it is very difficult to recruit new lottery players and still make the 20% margin of contribution. So anybody who may be handsomely meeting the 80:20 rule from their existing lottery players is still restricted from growing their lottery base.

Some charities have found a way round this by using prize draws as a cold recruitment tool. One charity we spoke to had mailed cold prospective supporters with a prize draw offer using a purchased cold list. There was no purchase or donation necessary to take part in the prize draw. The responses came in at about 4-5% and around half of that number made a voluntary donation.

These supporters were then subsequently mailed with a lottery offer, along with other ways to support the charity. The conversion rate for these offers is good and as many as half of the prize drawer responders go on to give in other ways.

This approach has the advantage that the initial recruitment activity is free from the lottery regulations and only when individuals are known to be interested in 'games of chance' activities are they sent a lottery. This recruitment and retention strategy is particularly good for those charities that are difficult causes to communicate and fundraise for.

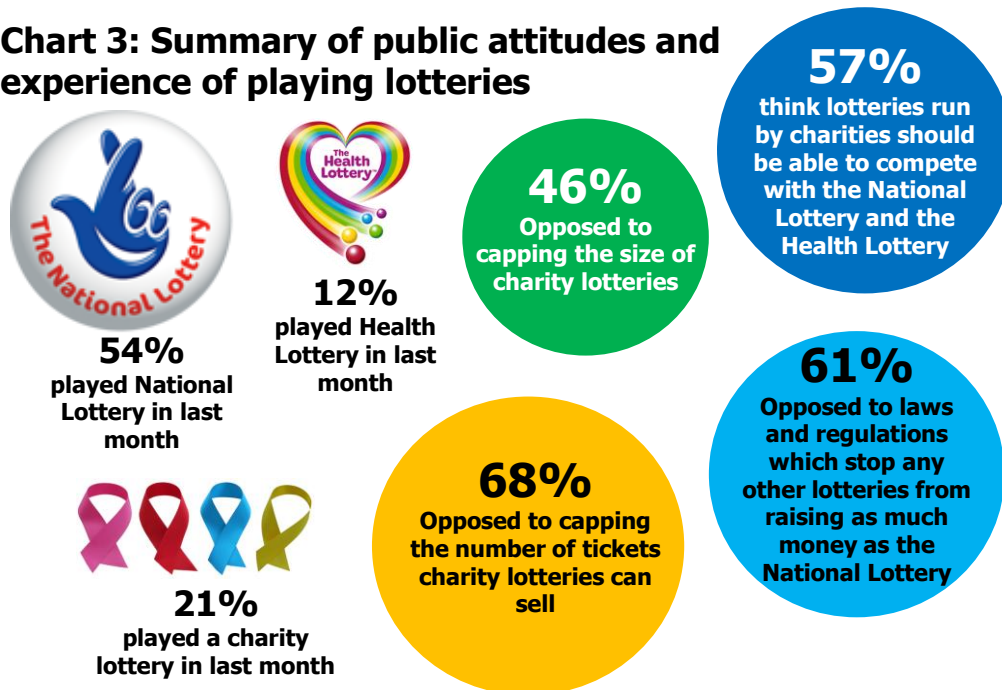
One of our interviewees put their use of prize draws like this:

*It's been an issue mainly in that it [lottery regulation] restricted our ability to grow through a cold programme as fast as we would want to, and that's really the biggest reason why we've gone into doing prize draws as well. Because with the prize draw, we can do a 500,000 cold mailing. Whereas with a raffle, we can't do more than about 100,000 cold mailing in order to combine the income from across the cold and the warm together and still meet the 80/20. So, in terms of the speed of growth, we're limited or we were limited whilst we were just using raffle as our recruitment tool.....And what we find is that 50-60% of people will include a donation from cold. It's an optional donation but because we also get a higher response rate than we get to a raffle, actually the number of, if you like, paying customers that we get from a prize draw exceeds what we would get from a raffle anyway.*

## Section 3: Lotteries and the public

Alongside the questions we asked those in the sector, we also asked the public<sup>5</sup> in 2012 about their experience of taking part in the National Lottery, the Health Lottery and charity lotteries. 54% of our sample said they had taken part in the National Lottery in the last month, 21% had taken part in a charity lottery in the last month and 12% had taken part in the Health Lottery (see chart 3).

**Chart 3: Summary of public attitudes and experience of playing lotteries**



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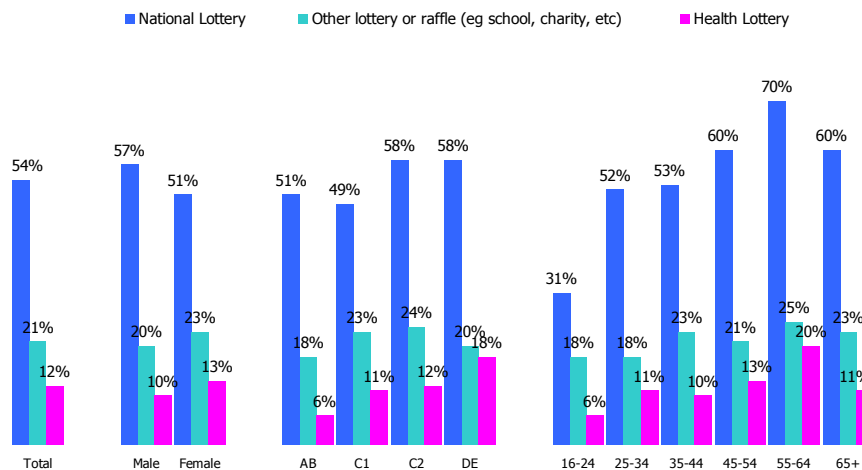
Chart 3 also shows the headline figures for the other questions we asked the public:

- 46% opposed the capping of the size of prizes in charity lotteries
- 57% think lotteries run by charities should be able to compete with the National Lottery and the Health Lottery
- 68% are opposed to capping the number of tickets that charity lotteries can sell
- 61% are opposed to laws and regulations that stop any other lotteries from raising as much money as the National Lottery

<sup>5</sup> We asked 1000 people in GB, representative of the UK population, in March 2012 using an online poll. We realise that the Health Lottery is not a single lottery, but it is marketed as such so we were happy that people would understand the question.

Chart 4 shows the demographics of the players of the National Lottery, the Health Lottery and charity lotteries. This shows that the National Lottery is the most frequently played lottery across all ages, all social classes and both genders. Looking a little deeper, it appears that young people aged 16-24 are the least keen National Lottery players (31%), although they were almost as likely as other age groups to have played other kind of lotteries (18%). The Health lottery is most popular amongst social classes DE and amongst the 55-64 age group, while charity lotteries are fairly equal in their popularity. For charity lotteries, the spread of participation by **age ranges** from 18% to 23%, while the National Lottery ranges from 31% to 70% and the Health Lottery ranges from 6% to 20%.

**Chart 4: demographics of National, health and charity lottery players**



"Have you bought a ticket from the National Lottery/Health Lottery/any other lottery or raffle (e.g. school, charity, etc) in the last month?" **Yes**

Base: 1,000 adults 16+, Britain.

Source: Charity Awareness Monitor, Mar 12, nfpSynergy

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Statement 1 (see above) showed 34% in favour of restricting the size of the prizes in charity lotteries (see chart 5). This was the only statement where the number of people in favour of restricting lotteries was substantial. Interestingly, statement 1 is also the only statement where there is a substantial difference in attitude based on the demographics of respondents.

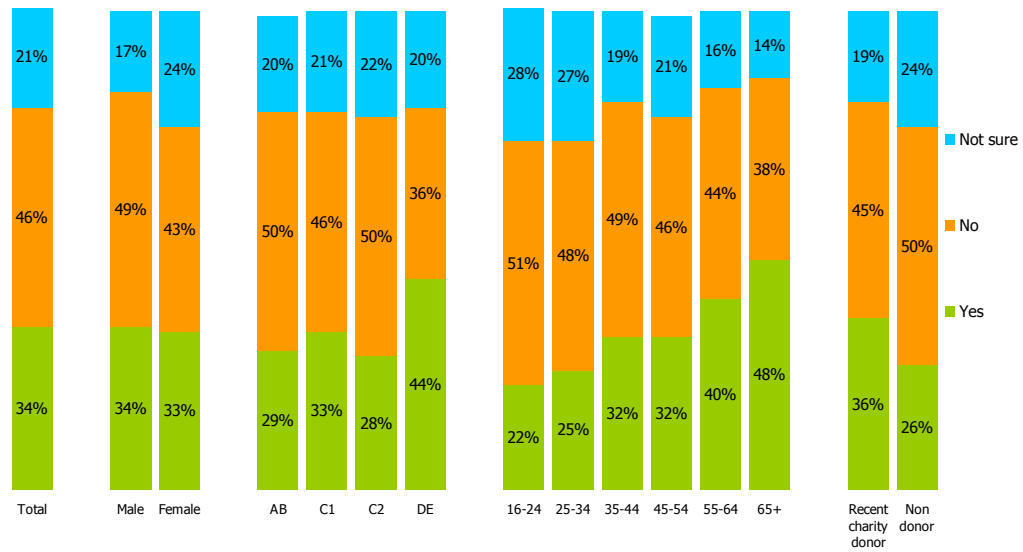
Only 22% of 16-24 year olds think prizes should be capped, but this rises with each age band and reaches 48% in the over 65s category. Interestingly, this pattern matches the rise in players of the National Lottery by age. Social class DE are also more supportive (44%) than other social classes of capping charity prizes (for example C2s is at 28%).

In contrast, attitudes to statements 2, 3 and 4 varied little by age, gender or social class. For statement 1, there is a 26 percentage point difference between



the highest and lowest levels of agreement. For statements 2, 3 and 4 the differences are 7%, 8% and 10%. The reason for these differences, or lack of them, is not clear.

**Chart 5: The balance of opinion is against charity lottery prizes being capped**



“Do you think that the size of the prizes in charity lotteries should be capped?”

Base: 1,000 adults 16+, Britain.  
Source: Charity Awareness Monitor, Mar 12, nfpSynergy

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### Box 3: how might the rise of the Health Lottery impact on the wider lottery landscape?

The reaction to the Health Lottery from politicians and Camelot has been out of all proportion to its size or impact on the National Lottery. Even the original Health Lottery estimates would have put its turnover at less than 10% of the National Lottery. The amount it actually appears to have raised equates to just over 1% of the National Lottery's turnover.

If its financial impact is not substantial, its political impact has been. Politicians and sector figures like Sir Stephen Bubb have treated the Health Lottery as if it were the only other lottery in existence and a mortal threat to the National Lottery. The DCMS consultation announced just before Christmas 2012 can be directly traced back to the political reaction to the Health Lottery. Unfortunately, any attempt to 'squish' the Health Lottery will almost certainly cause collateral damage to a great many others. The legislation under which the Health Lottery operates is the same as for all other society lotteries.

Our interpretation of the hostility towards the Health Lottery is that the government and others are worried that, rather than raising money for good causes, Richard Desmond is using it as another way to make a quick profit. The government hypothesis seems to be if the 20% minimum contribution is raised to 30% (or whatever level) then Richard Desmond will be forced to hand over his profits to good causes. There is no evidence to suggest that the Health Lottery has made any profit for Desmond. Indeed he has gone on record as saying he has invested £45 million so far (and counting). In any other circumstances, somebody who gave £45 million to charity would be hailed as the kind of philanthropist government wants to encourage. It's a funny old world.

The impact of the Health Lottery and the associated political fallout could turn out to be positive or negative for charity lotteries. If it results in the creation of a regulatory framework in which all organisations running lotteries can maximise the money they raise for good causes, it will have been positive. However, if the government does 'whatever it takes' to flatten this perceived competition from the Health Lottery and damages the playing field for all society lotteries, its impact will have been highly negative.

## Section 4: Consultation on lottery regulation changes

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In the summer of 2012 nfpSynergy, with the help of a number of other organisations and individuals, carried out a consultation about possible changes to charity lottery legislation and regulation. We wanted to find out which of a variety of changes and solutions were the ones that charities and good causes which used lotteries thought were the most important and the most feasible. Because of the nature of the consultation this is quite a detailed and technical section, so unless you are into the detail of lottery changes we won't be offended if you jump to section 5.

### Summary of the consultation

The overwhelming majority of comments made were in favour of some change to the current regulations (see box 4 for the issues and solutions we consulted on). Some replied simply to express their support for the campaign without specifying which regulations they disliked or how they wanted them to be altered. The majority of respondents made some comment about either the 80:20 rule or the Gambling Commission threshold or both, almost entirely calling for some degree of relaxation. The Gambling Commission's response was largely to clarify some issues and set out their position.

The few respondents who wanted to block the changes pushed for by the consultation document did so for two reasons. They either thought that if the campaign was too ambitious the regulator would reject it entirely, or they were concerned that relaxing the regulations would raise concern in donors' minds about the integrity of charity lotteries.

In response to the first question asking whether the consultation missed anything and whether they would propose any different solutions, the majority of those who responded thought nothing had been missed and were happy with the proposed solutions. One respondent raised an additional issue about gift aid and two respondents approved of the campaign while warning it should proceed with caution.

There was a general consensus that respondents did not want the campaign to press for the 'abolition' of the 80:20 rule because it provided a useful check on lotteries and reassured charity supporters. Only a few of the respondents wanted the rule to be abolished. Almost all of those against abolition appreciated that the current regulation made it difficult for new lotteries to develop and wanted to see some amendment to the 80:20 rule. They either endorsed the ones suggested in the document or came up with their own solutions.

The majority of respondents supported the idea of raising the threshold above which lotteries become subject to Gambling Commission regulation. Several respondents criticised the current arrangement for being disproportionately strict and the Gambling Commission for providing a poor service in various ways. However, some respondents were also doubtful of the benefits of being under the Local Authority as a regulator because they see them as inconsistent.

Seven charities gave their formal support to the campaign. The question did not result in any charities disassociating themselves from the campaign. A further eight expressions of support came via informally structured emails, not responding explicitly to the question but in a similar vein. Some also said they would support the campaign depending on its final content.

Three respondents gave comments on each of the obstacles outlined in the consultation document. They agreed with the removal of age verification on remote lotteries, with dual licensing and with the removal of turnover limits. Two respondents commented on the issue of cloakroom tickets and neither thought that they should be allowed.

The response of the Gambling Commission has been analysed separately to the other responses and is set out in later in this report. They aim to counter some of the perceptions of the Gambling Commission and to argue that the current regulation is proportionate to the risks involved in lotteries.

## Box 4: the proposed solutions in the lottery consultation

### Changing the 80:20 rule

#### ***Solution:***

- Allow incidental donation income (i.e. donations that are generated by a lottery but are not for the purchase of tickets) to be recognised as part of the overall lottery performance.
- Take assessment of adherence to the 80:20 rule for all the lotteries an organisation runs, rather than any single lottery and over a five year period rather than in a single financial year

### Give society lotteries proportionate expert regulation within the wider gambling industry

#### ***Solutions:***

- Sector-specific primary legislation that recognises the distinct nature of lottery fundraising and its role in forging a better social environment is required.
- Raise the threshold to £1 million annual lottery turnover for triggering Gambling Commission licensing, allowing more Societies to operate under the less onerous and less costly system of Local Authority registration.
- Permit charities/societies with distributed branch structures to allow those branches to operate small lotteries under Local Authority registration, even when the principle Society/charity holds a Gambling Commission licence.
- Create a Society/charity-specific process for the registration of lotteries and charities, rather than using the same materials as those for casinos and commercial gambling activities
- Equip the Gambling Commission with a qualified, dedicated support team, preferably with charity knowledge, to respond constructively to lottery queries
- Absolve Societies from any obligation to contribute towards the resolution of problem gambling – except for those charities which promote scratchcards
- Create a central 'stop list' for those who DO NOT wish to receive lottery mailings from charities. This could be administered along with the proposed central Gift Aid database for micro-donations. This would allow the public to know that one registration should reduce the chance of them receiving lottery mailings dramatically. Alternatively, it could be administered by the Gambling Commission

#### Box 4: the proposed solutions in the lottery consultation (contd)

##### **Remove age verification for 16 and 17 year old for remote lotteries**

###### ***Solution:***

- Waive the requirement to screen every entry and use self-certification plus random sampling as an alternative control, like with credit cards.

##### **Dual licensing of non-remote and remote lottery activity**

###### ***Solution:***

- Assimilate non-remote licensing into remote so that one licence authorises both activities and the levels of compliance are identical for both, BUT based on the current standards for non-remote licences.

##### **Allow cloakroom tickets in exempt small lotteries**

###### ***Solution:***

- Permit the use of standard pre-printed "cloakroom" tickets.

##### **Remove turnover limits for society lotteries**

###### ***Solution:***

- Remove the limits on Society lottery turnover.

## Have we missed anything from the regulatory problems we have outlined?

## Would you propose a different solution to the ones we have set out?

### The detail of the consultation

Most people said they thought the campaign had not missed anything and didn't suggest any different solutions to the ones in box 4. However, the number of respondents was small and caution is warranted in over-claiming based on these responses. Some did go on to add to or to disagree with the solutions proposed in the document.

For example, one respondent didn't think that the threshold for Gambling Commission regulation should be raised or the 80:20 rule overturned.

Another respondent brought up a problem with lottery fundraising. They complained their charity has had to drop their usual Gift Aid request when they run lotteries because it becomes too much to explain on the form. Another respondent warned against asking for too much at once as he thought this might make it easier for the Gambling Commission to reject the whole thing. In his view, it is "Better to win small battles than lose the campaign". In a similar vein, another respondent called for caution and wanted to flag up that the campaign

might result in society lotteries being taxed at the same 12% rate as the National Lottery.

## Should we be bolder and press for the abolition of the 80:20 rule altogether?

How likely would we be to achieve this change in the current climate? What is the solution that is most likely to achieve success with the greatest benefit for fundraising?

The majority did not want to see the 80:20 rule abolished (i.e. there would be no minimum amount that has to be given to good causes). Generally this was not because they thought the call for abolition would be rejected by the regulator, but because they saw the benefits of having the rule in place.

- Many of them saw the value of the rule's function of clamping down on rogue commercial lotteries and guaranteeing that an adequate proportion of proceeds are given to charitable causes. One charity called this "commercial discipline and measurement", while another felt that "the 80:20 rule is a useful tool in ensuring that a certain level of the income does in fact go to the cause to which it is intended".
- A few said the rule was important to them because it convinced donors of the legitimacy of their lottery fundraising. One CEO of a small charity said: "My personal view is that the 80:20 rule should stay since it gives some reassurance to charity donors. Indeed, for many, only 20% going to the cause may be considered insufficient."
- Several seemed to think that lotteries are more contentious as a way of fundraising than others. For example, one large charity argued that "the rule helps us to maintain integrity, especially with regards to a fundraising mechanism that some feel is inappropriate (e.g. spending charity revenue on prizes)". Another respondent identified a "possible public sensitivity of removing the 80:20 ratio".

## Those who supported abolition provided a variety of reasons

One respondent thought that the campaign should ask for abolition outright because, although they didn't believe this was very likely to be granted, it would be tactical to start from a strong position on the issue and negotiate downwards with the regulator. Another adopted the argument that it was inconsistent to prescribe fundraising ratios for lotteries, but not for other types of fundraising. Two charities wanted abolition so they could achieve higher recruitment of new supporters. One organisation told of the rule's stifling effects on their lottery, stating: "It has massive implications and in fact also resulted in us cancelling our

raffle programme as the investment into cold data just couldn't make it work, and we kept failing the 80/20 split."

However, almost all of those who didn't want the 80:20 rule to be abolished did see that it creates difficulties for small charities and wanted some amendment to it

One respondent exemplifies this approach. They said that though the rule "could be the final check to maintain lotteries for good causes... it is in reality a major hurdle to new lotteries." They tentatively agreed with allowing an extended period of time to reach the 80:20 ratio, but were still concerned that "commercial lotteries" could exploit the new relaxed regulation by only running for a year or two.

A couple of respondents even suspected that charities have long been successfully arranging their figures to get around the rule and have done so undetected by the Gambling Commission, which they claimed was initially under-resourced.

Most of those against abolishing the 80:20 rule agreed with the solutions proposed in the consultation document, namely allowing incidental donations to be included in the ratio and assessing the ratio over a longer time period.

The Lotteries Council said:

*"It's not so much a question of whether we could get away with it as whether it would really be in the sector's long term interest; not, I would suggest".*

Others suggested their own amendments to the 80:20 rule:

- Income from gift aid could be included in the ratio calculation
- "Acquisition costs" could be exempt from the stipulated fundraising ratio for lotteries
- Charities could be allowed to use their general funds from a mixture of sources to grow their lotteries, with only administration and prize costs being subjected to the 80% limit. The ratio requirement could be delayed by linking it to lottery membership numbers. A similar suggestion involves tailoring the ratio that charities are required to meet based on their initial costs and ROI. For example, a more universal model in which the ratio increased steadily from 100:0 in year 1, to 90:10 in year 2 to finally reaching 80:20 in year 3 of the lottery



**Should we argue that the threshold of lottery turnover for regulation by local authorities be raised (so fewer organisations were regulated by the Gambling Commission)?**

**Are there other changes to regulation by local authorities**

The majority of respondents agreed with raising the threshold for Gambling Commission regulation and there was much criticism of it as a regulator for small lotteries. However, doubts were also raised about the consistency of Local Authorities' licensing.

Some people did not elaborate on the reason for their support of the proposal. One simply said:

*"I would certainly press for a change that the majority of charities would work under the Local Authority Licensing system",*  
with another saying:

*"Completely agree with your solutions".*

Others wanted to emphasise the mismatch between the scale of the lottery activity in question and the scale of regulation. One explained the paradox well, saying:

*"These small activities include raffles in shops or fetes as well as office sweepstakes. Often these small activities are designed to raise relatively small sums for community groups (typically friends of charity groups). It seems incongruent to impose regulations designed to control activity in betting shops and amusement arcades and for large lotteries onto these minor fundraising initiatives."*

Another respondent went further in describing the effects of this disparity on small lotteries, complaining that

*"they are charged annually for something for which there is no return and an abundance of unnecessary legislation".*

He was also critical of the Gambling Commission, describing them as

*"persons who do not really understand lotteries, fundraising or know what they are doing."*

As well as criticising the status quo, some of these respondents had their own proposals for how the system could be modified. One called for the waiving of all

regulation for charities beneath a certain income threshold. Another idea to cut down on regulation was for “lotteries to be taken out of the Gambling Commission regulatory framework altogether and have ‘Incentivised Fundraising’, regulated by the Charities Commission”, though they admitted that realistically this was unlikely to happen and so concurred with the proposals in the consultation document.

Others who supported the proposed change were less strident in their rejection of the Gambling Commission and more doubtful of the benefits of the alternative. For example, one criticised the Gambling Commission for often sending irrelevant information to their charity because they feel that generally they give off the message that “we can’t give you advice or training, you’re just expected to know the rules and abide by them” (quotation marks in original). However, they also admitted that the charity was fortunate to have a good contact in the Gambling Commission who helped to answer their queries.

## Concern for the consistency of Local Authorities

Many felt that Local Authority licensing was incredibly variable in its strictness depending on the region. They also felt that their experiences of trying to get advice and guidance from the Local Authority were even more difficult than those of other Lottery Council members dealing with the Gambling Commission. Two of the nine who responded to this question were against calling for a rise in the threshold for Gambling Commission regulation.

One respondent thought that the request to change thresholds would be unnecessary and too ambitious. They said that the charity would only be able to grow their programmes as they wanted to through a relaxation of the 80:20 rule, based on the expectation that they would be required to submit their returns less frequently.

## Specific regulatory obstacles and goals

On the issue of age verification for 16 and 17 year old players in remote lotteries, everyone agreed with the solutions proposed. One also suggested several other solutions, such as accepting only credit or debit cards that are only available to over 16 year olds (though these had already been rejected in the consultation document for potentially excluding some older people and those wary of credit cards). The same respondent also wanted to draw attention to what he sees as the bigger issue of credit cards charging as much as £4 for online raffle and lottery payments indiscriminately, whether it is a charity or online gambling site. One quote from the interviews illustrates the importance of this issue:

*Debit cards can be issued to people who are under 16 and therefore you have to be careful. The actual rules are this, if you can show that a third party has age verified someone before they play, then you can accept their money and accept that verification. If you're not sure or you can't prove a third party has verified their age, then you have to do it. Now with debit cards, for example, you've got two or three choices; you could either hook up to Experian or Equifax, I don't know, pay 12p a go for Equifax telling you how old these people are before you put them into the draw, you could do that, or you could do something that I did, which was to get every single card number that was ever issued to anybody and when the card's offered you check it with the bank and ask them.*

Three respondents commented on the issue of **dual licensing of remote and non-remote lotteries**. They pointed out that removing dual licensing would solve the problem of out-of-date definitions for remote and non-remote lotteries. It would also help fundraising in its task of adapting to the changes in methods of charity donation as new technology emerges.

Only two comments were made about **allowing cloakroom tickets in exempt small lotteries** and neither supported the idea. One argued that "the current system, although time consuming, clearly identifies who the lottery organisers and beneficiaries are, which cloakroom tickets cannot", though he thought that cloakroom tickets were fine for raffles drawn on the day. For another respondent, printed tickets were a way of maintaining central control over fundraising, stamping out "additional raffle activities" and so protecting their integrity and brand. He said that he was happy to discuss this further. One interviewee also highlighted this issue:

*The other thing we haven't touched upon is the fact that a de minimis lottery, a de minimis society lottery would be so helpful, because if it's a society lottery it has to be registered and it has to be this, that and the other, and I know the Gambling Commission are very, very much in favour.*

On the issue of removing lottery turnover limits, respondents agreed with the idea in principle, though they also pointed out that the issue was not relevant to their charity or the majority of the charity sector. However, it was picked up in our interviews:

*The £10 million from revenue means that roughly we have to be very mindful of the limits, obviously, and make sure that we operate within them, but at the moment we have 3 society lotteries that we run, so we are well within those 10 million at the minute, but as player growth increases then obviously we have to address that. ....*

*That [removal of turnover limits] would enable also from our perspective the ability to create a larger prize fund which would in theory be more attractive to potential players, could again help us increase revenue so there is that issue as well, if you increase the thresholds then that's great and then we have got the ability to be able to manage a bigger prize pot to appeal to more players to join....and the other restriction is obviously in relation to the 10% or a maximum of £400,000 per ticket.*

*We have two separate licenses and we run two separate raffles, so we split the country down the middle, so we get around it by doing that. But you know the backdrop to that is actually if there wasn't a £10,000,000 ceiling it would probably save the charity some money, some prize money as well as some administrative costs.*

## In conclusion and overall

Overall, there were several expressions of support for the proposal and criticism for the status quo, along with some who were prepared to support the proposal depending on its final content. Some were very enthusiastic, such as one who said:

*"I am **totally behind** every point which you made, and would assure you of my **complete support** in your campaign – both formally and publicly" (emphasis in the original).*

Another described himself as

*"delighted to stand with Joe, The Lotteries Council, The Institute of Fundraising, The Hospice Lotteries Association, charities and other service providers to try to make a real difference for our clients and the sector as a whole."*

He said that his organisation had long been in support of change to some of the regulation, like the cap on lottery turnover.

Many attached a criticism of the status quo, like one who said:

*"I wholeheartedly support the campaign you have started in every way. Lottery law and legislation is simply far too complicated and needs to be reviewed."*

In a similar vein, another said

*"we've been very aware of its [the Gambling Act's] heavy handed*

*approach towards charity lotteries, particularly in the case of relatively small operators such as ourselves, so we very much welcome the call for change." Another concurred with this idea, saying: "We currently allow just 2 plays of £1 per week, so can relate to arguments that what we are doing is very different from the National Lottery and other forms of gambling."*

There were also a few more tentative offers of support depending on the finished document. For example:

*"we would in principle support the proposal. But it would depend on exactly what sections 1 and 5 [80:20 rule and Gambling Commission threshold] would be."*

Another reiterated their support as expressed in the previous question, but warned against pushing for too much and jeopardizing the whole campaign. They said:

*"We still need to be realistic and accept that we're going to still be working under the Gambling Commission, but a relaxation in some of the constraints we work under would be highly beneficial."*

### Box 5: Response of the Gambling Commission

The Gambling Commission, kindly sent us their response. The Commission made it clear that they were not fundamentally opposed to deregulation and welcomed the initiative of the campaign organisers. However, they aimed to counter the criticisms made of the Gambling Commission in the consultation document with regards to their lack of support for lotteries. They also looked to emphasise the need for the regulation of lotteries, distinct from other types of fundraising, which recognised the higher risks associated with all types of gambling.

- The Gambling Commission wanted to make it clear that they are not set against what they termed “sensible deregulation” and were pleased to receive the initiative taken by “key partners in the lotteries sector”.
- However, they also wanted to rebut the accusations made in the consultation document that the Gambling Commission “does not have either the resources or the inclination to provide lottery-specific guidance.” They pointed out that the lotteries sector was the biggest consumer of Gambling Commission helpline services, that there is a team of lottery specialists in Birmingham who help societies as well as businesses and that they provide advice and notes. They also attend Hospice Lotteries Association and Lotteries Council events and Gambling Commission regional staff often engage with local lottery businesses and local licensing authorities on the issue.
- The Commission also objected to the playing down of the risk of problem gambling in lottery players. They said:
  - “We adopt a risk-based approach to regulation to ensure that our licensing objectives of keeping crime out of gambling, ensuring that gambling is fair and open and protecting children and the vulnerable are met.”
  - The Commission wanted to say that they do not apply a ‘blanket’ approach to regulation, rather they apply a risk-based approach, which is proportionate, transparent and consistent, in order to ensure that their licensing objectives are met.
- They pointed out that the argument that ‘lotteries are over-regulated compared to other forms of fundraising’ is flawed because other forms of fundraising are not classed as gambling, unlike lotteries. They also said lotteries as a sector were growing faster than any other in the gambling industry.
- Though they accepted that “most types of lottery present a lower risk”, they said this was already reflected in “the Act, the level of regulation, the licensing requirements for society lotteries and our overall approach to the sector.”

## Section 5: The key issues in raising money from charity lotteries

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This section looks at the key issues for society lotteries and sets out our recommendations for change. The first part looks at the key issues, starting with the regulatory burden imposed on lotteries.

### The overall regulatory burden

#### Issue 1: Regulation adds cost and bureaucracy for all players of society lotteries

There is no doubt that society lotteries are highly regulated compared to other forms of fundraising and that this adds to the cost of running lotteries (see chart 2). These extra costs may be as simple as the fee for registering with the local authority or the Gambling Commission. However, there are others to consider, like the people costs of making returns to the regulator, monitoring all lottery activity closely and dual registration for a lottery that is to be promoted by telephone and post. These extra burdens are placed on all organisations that play lotteries (unless they are an event based raffle). Here are some quotes from the interviewees to illustrate this point:

*"Well when we were trying to apply for a remote licence to use to go to general online raffle we found it very, very difficult. We did all that we were asked to do and more than what we were asked to do and they still came back to us with more questions, and at the end of that year we had an audit and I suspect it's because we asked for a remote licence."*

*"So having that remote licence we had to go through the same hoops as Gala Bingo having a remote licence, exactly the same, but we are a much smaller organisation. ....We did find a lot of the restrictions were very, very tight and it was about making sure that there was no breach used in terms of a bigger organisation rather than it being tailored towards us as a small organisation and understanding our needs. ....I think it was something like thirty six pages<sup>6</sup> times two of a form that we had to fill in. We had to give financial details of our mortgage."*

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<sup>6</sup> We were sure that this couldn't be right. But sure enough the form is available from the Gambling Commission website, albeit slightly shorter at 24 pages, but the personal details form is another 20 pages. [Take a look here.](#)

*"We had to have a check, we had to have a financial check, you know a credit check done against us. We had to have disclosures done against us and we had to find three references who were not connected to the organisation."*

*"All just to run our raffle for under £40,000 a year..... I can understand it if you are working in the gambling industry, but we are not, that's not our primary objective."*

## Issue 2: The origins of the regulatory burden is three-fold: gambling regulation, protecting the National Lottery and ensuring money is raised for good causes

The regulation of society lotteries is a mess because the purposes of the regulation come from three entirely different roots. These three different purposes are to prevent problem gambling, to protect the monopoly of the National Lottery and to ensure that a certain level of income goes to good causes. However, there is only one regulator for lotteries of any size: the Gambling Commission. The difficulty this creates is the Gambling Commission is designed to regulate gambling, while lotteries are also being regulated for other purposes. The regulator and the regulated are not always well suited to each other (see the next issue) as this quote illustrates:

*"They need to be a bit more separate. I think the guy who came to our compliance visit is used to going round casinos, so I think it found it a little unusual to come to us. I think for small charities the amount of rules and regulations, you know, over the years I have talked about rules and regulations and how much, how many hoops you have to jump through, so to speak, in order to run a raffle, it can seem quite ridiculous".*

## Issue 3: There is no evidence that society lotteries create any kind of gambling problems

The irony of the Gambling Commission being the regulator is that there is no evidence that lotteries create gambling problems. The Commission's own report, the British Gambling Prevalence Survey (BGPS) shows almost no problems with society lotteries as a source of gambling addiction or problem gambling. The only possible area for problems is scratch cards, and the dominant 'good cause' player of scratch cards is the National Lottery. However, the biggest single source of helpline calls to the Gambling Commission is society lotteries. So the biggest source of helpline work for a gambling regulator comes from organisations who



are asking about issues that are little or nothing to do with problem gambling. This culture gap and regulatory mismatch is hinted at in this quote:

*"The Gambling Commission will struggle to understand the differences between what we do and what a casino does and what a bingo hall does and what a betting shop does. We are offering a much, much different product to what the rest of the industry is engaged in so I think the Gambling Commission is the wrong regulator, but unfortunately the law stipulates that they have to be and I would suggest that whoever comes out as being the charity regulator overall, it should sit with them and that they just understand in a fundraising concept rather than in a gambling concept."*

#### Issue 4: The regulatory burden has created an ecosystem of consultants and external lottery managers

The complexity of the regulatory framework, combined with the cultural phobia of many charities of breaking regulations, means that there are many advisers and companies (i.e. external lottery managers or ELM) for society lotteries. So charities have a huge regulatory burden which increases the costs and complexity of running lotteries and for many, the solution is to hand the running of the lottery over to a third party with the appropriate expertise.

Indeed, much of the some people's hostility to the Health Lottery is because of the concern about how much profit the parent company is making as an ELM (given that they appear to be losing money heavily this is pretty ironic really). So the regulatory burden has made it necessary for many charities to hand over the running of their lotteries to a third party, but then people criticise them for the additional costs they incur in order to meet those regulations. The reality is that there are a high number of agencies who supply lottery services and the market appears to be competitive and dynamic.

#### Issue 5: Charity lotteries are suppressed while commercial gambling is allowed to thrive

While charity lotteries are deliberately suppressed, commercial gambling has been liberalised and even encouraged over the last decade. So as charities are held back in terms of how much they can raise from lotteries, the size of prizes they can offer and how much profit they must make (in the form of the 20%), there are no such restrictions on commercial gamblers. If there is anywhere to

look for threats to the National Lottery, it is far more likely to be in the explosion of online gambling and the growth of casinos.

## Issue 6: The primary legislation and regulation has not kept up with the real world

It is as much paperwork to register society lottery as it is to run a casino. Indeed, it is the same paperwork (see the quotes after issue 1). It is even more debilitating if a charity wants to run a lottery by posting tickets to its supporters as well as by telephoning them. It needs to register the same lottery twice: once for the paper version (called 'non-remote' in the jargon) and once for the telephone calls (called 'remote'. There is now an ancillary remote licence to cater for 'manual' processing over the phone or by email).

The same is true if a lottery is to be run online and on paper; two registrations are needed. Apparently, it would require primary legislation to change this. It is hard to see what regulatory purpose dual registration serves to keep society lotteries 'safe and fair for all', so we can only presume it is a legislative anachronism rather than deliberate policy.

## Issue 7: The 80:20 rule is a ball and chain that reduces how much charities can raise

Of all the regulatory issues that hold charities back from raising more money from society lotteries, it is the 80:20 rule that is the most important. The reason for this is simple. The rule means that for every lottery an organisation runs, it must make a minimum contribution to the 'cause' of 20p for every £1 of income. Achieving this degree of profit from a standing start for an individual lottery is all but impossible. So the 80:20 rule makes it very difficult for organisations to enter the lottery market and very difficult for an organisation to increase the size of its existing lottery activity. Even if every other lottery a charity runs is contributing (say) 50:50, it makes no difference; each and every lottery must reach the 80:20 profit margin.

Imagine if the government said that every new business must hit a given profit margin or it would be breaking the law. There would be an outcry. But when government (and one that has said it wants to increase giving) has regulations insisting every lottery must make a given level of profit, it is a sure way to stifle growth in the society lottery market. Any move to change the 80:20 to 75:25 would instantly reduce the amount raised for good causes, because any lottery which didn't reach that threshold would be illegal. Increasing the required profit

margin would be a sure-fire way for government to make sure charities raised less money from lotteries, not more.

## The difficulties that the 80/20 rule can create - our interviewees' views:

*"So say we were recruiting 1000 people at a time, it's a 1000 people in a raffle that goes to 30,000 so in actual fact the gross growth of the raffles is only going to be very small, we can't just do a big hit. You know I'd love to do a big hit that recruited 10,000 new players and the raffle grew by 33% but we can't do that because of the 80/20."*

*"I would veer more towards a five year period [for meeting the 80:20 rule] because that would allow you to be quite aggressive in year one. So of course once you've done it in year one you probably want to do it again in year two, you know if you were can acquire 10,000 people in year one you'll want to acquire another 10,000 in year two possibly, I suppose it depends on how the financials plan out but if it's over five years then you'd have to wait potentially three, four, five years before you can do another big hit again, so..."*

*"Well the two key things, I'll just leave you with the two key things; one is the 20% rule is an absolute bloody stumbling block for starting your own lottery because of the arithmetic, as I showed you...."*

*"We were talking about whether we'd launched a weekly lottery two years ago and again one of the big considerations was how quickly we can make that lottery legal in effect because starting from zero you've quickly got to hit the 80/20 rule because obviously each week is a separate lottery draw in effect, so again that was a situation where we really had to, really had to kind of ramp up all of our activity pointing towards that to try and get into the 80/20 ratio as quickly as possible."*

*"You kind of hold your breath slightly when the results come in because you know that you have got to make a certain amount, so for instance whenever we do a raffle we have to make over £30,000 and so as soon as it goes over 30 we know we are safe."*

However, many appreciate the rule's benefits as well:

*"Well yes, I would beg you to realise, from my position, I certainly know others feel the same way, is that this 20% is a safeguard against commercial exploitation, to be honest. I think many of my associates, a hundred or so of them in hospice lotteries, wouldn't want it to be... I mean, we, for example, would normally make 50p in the pound, something of that nature.*

*"The 80/20 rule is very good for us there because we show the lengths that we go to to ensure that that is quite high."*

## Regulation and the National Lottery

### Issue 8: The National Lottery is nearly 100 times larger than any competitor

There is no competitor to the National Lottery that is larger than around 1.5% of the £6 billion annual ticket sales. The Health Lottery is less (around 1%) and the top of the turnover threshold for a society lottery, £10 million, is less than 0.2% of the National Lottery's turnover. In other words, the aggressive action that Camelot and the government have taken to maintain the monopoly is to keep competitors who sell less than £1-£2 in tickets for every £100 that the National Lottery sells. This really is elephants being afraid of mice.

### Issue 9: The regulation to protect the National Lottery potential for raising money for good causes does so by hindering charities from raising money

It's worth just reflecting on the regulatory approach that government has adopted. To protect the National Lottery and help it raise money for good causes, its strategy is to stop other charities from raising money for good causes. So any regulatory action which strengthens the position of the National Lottery is at risk of weakening the position of society lotteries. The danger is that people believe that the converse is the case, that reducing regulation for society lotteries will make life harder for the National Lottery. We believe that we need a win/win in which we focus on creating a regulatory regime that increases the amount raised for good causes by reducing the regulatory burden. This need not be the win/lose that DCMS and Camelot have portrayed it as.

## Society lotteries as a method of fundraising

### Issue 10: Raising money through lotteries is not tax-effective

Although the motivation for buying lottery tickets (from whichever provider) is mixed, from concern for the cause to desire to get rich, no lottery ticket purchase is currently 'gift-aidable'. This is because there is a long standing HMRC rule that donors should not receive a benefit for their donation of more than 25% of the value of the donations. Any intelligent reader might point out that the vast majority of ticket buyers will receive no benefit, because they won't win a prize. The problem is that those who do win a prize will easily exceed the 25% benefit limit. This anomaly means that one of the most successful and inclusive fundraising mechanisms is not tax-effective.

If donations to charity shops can be made 'gift-aidable', then surely purchases of lottery ticket could be made tax-effective if the will is there. One of the ironies is that donations made alongside lottery ticket purchases are 'gift-aidable'. So anybody who buys £10 of tickets in lieu of a donation cannot gift aid their ticket purchase, but if they gave £10 as a straight donation and ignored the lottery tickets they would be able to gift aid it.

### Issue 11: Lotteries have performed well throughout the recession and are the inclusive 'Big Society' in action

All the fundraisers that we have interviewed and many of those in our survey said that lotteries have remained very strong throughout the recession to date. The reasons for this have not been researched, but we suspect that it is something to do with the fact that the donor perceives that they may get something back in return for their donation. They are not just giving, but also stand a chance of winning a prize that would help them in difficult times. Their generosity is underpinned by a sliver of selfishness.

Another factor is possibly that lottery ticket buyers are often a different type of person to the mainstream donor. They are often less rich, less used to giving perhaps and maybe a little more C1 or C2 than the typical AB donors. This matters because it may mean that the lottery ticket buyers are supporting fewer charities overall and so are more able to keep giving to those they support. As one interviewee put it:

*"Again we are very lucky because our supporters are incredibly loyal. I don't know whether other charities have found this as well, you know. People have sort of said 'Oh I can't afford to donate' but in terms of the raffle we have been really lucky and it is doing really well for us, but that*

*is probably because we have also made changes as well, ..... so we have probably been shielded from any negative effects of the recession.”*

Society lotteries are an effective and inclusive way of engaging more people in charities and their work. In many ways, they are just the kind of activity that the Big Society is built on.

## Issue 12: Charities are turning to less regulated games of chance to fundraise

One of the themes in the interviews is the rise of non-lottery games of chance being used to fundraise. Usually, this is a prize draw in which people don't have to make a donation to take part, but are encouraged to make one. There are other alternatives too. The benefit of prize draws is that they are less regulated and so charities can use them more flexibly. Typically this means recruiting people through a loss-making prize draw to then move them onto a lottery programme or even a weekly subscription draw lottery. This development can only be good news for fundraisers as it gives charities and fundraisers another tool in their income-generation toolbox (see box 2).

## Issue 13: Charity trustees and directors are often reticent about lotteries

Our final issue is perhaps a sad one. Despite all the amounts of money that charities have raised through society lotteries and that the National Lottery has raised, many charities have 'management' which is still lukewarm at best about the benefits and potential of lotteries. Interviewees told us how even getting their fundraising directors to take lotteries seriously was sometimes hard. We believe that trustees, CEOs and even fundraising luminaries like Professor Adrian Sargeant need to take society lotteries seriously as a form of fundraising and recognise its potential (and the way that regulation stops that potential being realised) rather than dismiss or denigrate it.

## Section 6: Our recommendations for change

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In this section, we detail the recommendations we have. First we outline what we are trying to achieve by deregulation, which is then followed by our specific recommendations.

### The objectives of regulation change

#### Objective 1 – regulation and legislation should create a win/win for all good causes using lotteries to generate funds

Our first objective of regulatory change is to create a regime that is not seen as 'either/or' between society lotteries and the National Lottery. We believe that we can create regulations that minimise the regulatory burden for all organisations using society lotteries (without any conceivable impact on the National Lottery) and maximise the amount of money that is raised for good causes.

#### Objective 2 – regulatory and legislative burdens should be proportionate to the size of lottery

We suggest lottery regulation should not be fixed, but should change with the size of the lottery. The smaller and more nascent the lottery, the smaller the regulatory burden should be. Similarly, the larger the lottery, the greater the regulatory burden. We draw a parallel here with income tax. Those on the lowest incomes pay no income tax, while those on the largest incomes pay the most income tax.

#### Objective 3 – Separate 'society lottery' regulation from 'commercial gambling' regulation

The current arrangement, in which society lotteries sit under the remit of the Gambling Commission, means that society lotteries are treated in many ways as if they were casinos or commercial gambling enterprises. In an ideal world, we believe that lotteries that generate funds for good causes should have their own regulator, whose goal is to 'maximise the funds raised for good causes from lotteries'. The plans are already underway for the merger of the two gambling/lottery regulators to create a single regulator. We believe that the new regulator should have 3 main and distinct types of gambling regulation: commercial gambling, the National Lottery and society lotteries.

## Our specific recommendations

### Recommendation 1: Amend the 80:20 rule so that minimum contribution is averaged over 3 years

We do not suggest that the minimum contribution to the cause by a society lottery of 20% should be altered, either up or down. To increase the minimum percentage 'contribution' required would make many existing lotteries illegal and reduce at a stroke the amount raised for good causes. To decrease the amount required would be counter-productive in terms of re-assuring lottery buyers and impossible in the current climate.

We suggest instead that the percentages are not changed, but that the rule does not apply to every single lottery or even over the whole year, but over a rolling 3 year period. This would mean that if a charity achieved in year 1, a ratio of 90:10, it would need to achieve 70:30 in year 2 to produce the right average over the period. So the percentage overall would not change, but charities could adopt a strategy of consciously reducing their percentage in the early years of a lottery growth strategy.

If this is unacceptable politically, we would say that at the very least the 80:20 rule is spread across all of the lotteries that a charity runs in a year, rather than each and every one they run having to comply.

### Recommendation 2: Allow gift aid on lottery ticket purchases

The logic of not allowing gift aid on lottery tickets is presumably that a ticket purchase brings potential benefit to the purchaser, which gift aid regulations do not allow. However, the regulations allow for a benefit of no more than 25% of the value of the donation (which is how membership benefits such as magazines and free access are allowed). Of course, the percentage of individual tickets that will get anything back is tiny; less than 1% in the vast majority of cases. So one suitable solution would be that if a lottery's prizes (whether donated or purchased) amounted to less than 25% of the value of the total income, it would be eligible for gift aid. This would maintain the 25% 'benefit' rule across the whole lottery.

Another alternative would be that gift aid could be claimed on those tickets that didn't win, since by definition they have received no benefit. Gift aid regulation is of course an issue for HMRC rather than the Gambling Commission.



### Recommendation 3: The minimum contribution that goes to the good cause and the other regulatory burdens should rise with the size of the lottery

Our proposal is the minimum contribution that a lottery gives to a good cause and its regulatory burden increases with the turnover of the lottery. This means that the turnover limits are removed, but the National Lottery is protected if another lottery grew to a size that was comparable to the National Lottery. In the regulation there is a special place reserved for the National Lottery and therefore, as it currently stands, the National Lottery is obligated to remit more than other players. This makes sense given the monopoly they hold. However, if other substantial lottery players were genuinely to develop it makes sense that they would have the same obligation to remit similar levels of money to good causes, and rights (such as free BBC TV coverage). In practice this could mean:

- The total that goes to the 'cause' (i.e. the current 20% minimum contribution) grows with size of lottery. Those under £10,000 should have no obligation to give to charity and the largest lottery players, those over £1 **billion** should have a contribution level of 40% or more (equivalent to the amount that the National Lottery currently remits to good causes and in tax)
- They have an open and transparent process for giving money to a breath of organisations rather than a single charity.

### Recommendation 4: Create a distinct and separate regulatory division and processes for charity lotteries

We have heard much in our research about the way in which the Gambling Commission fulfils its duties. The Gambling Commission says its mission is 'keeping gambling fair and safe for all'. It also says that it was 'set up under the Gambling Act 2005 to regulate commercial gambling in Great Britain'. All this begs the question of why the Gambling Commission is the regulator for society lotteries, which are not commercial and which pose no risk to the public in terms of being fair and safe for all (based on the Commission's own research). Yet apparently, society lotteries form the biggest single portion of calls to the Gambling Commission's helpline.

While views are very mixed, we had many people in our research say how frustrating it can be dealing with the Gambling Commission (and many who expressed satisfaction too). The unhappiness centres on their willingness tell a charity what they can't do, but not what they can do. So in terms of producing clarity about what charities can and can't do with their lotteries, the general consensus is that the Gambling Commission is less than proactive.

More important is that the Gambling Commission is forced to regulate on issues that have nothing whatsoever to do with keeping 'gambling fair and safe for all'. The turnover limits on society lotteries and the 80:20 rule are but two examples.

For all these reasons, we believe that a different and dedicated approach is needed for society lottery regulation. We believe that the aim of lottery regulation should be to '*maximise the total amount raised by all lotteries for good causes*'. We are aware of the proposal and consultation to merge the Gambling Commission and the National Lottery Commission and we are realistic about the fact these plans are well developed, so a new and separate regulator is not going to happen in the near future. Instead, we would like to see the new regulator have three key purposes: commercial gambling regulation, society lottery regulation and National Lottery regulation. We believe all three of these should be reflected in the senior management team and in the approach to the registration and regulation of society lotteries.

### Recommendation 5: An end to turnover limits and prize caps

While it is only a problem for a limited number of charities and CICs, the cap on total turnover, individual lotteries and prizes is a restraint on a charity's ability to raise money. It also isn't clear who the cap exists to protect. We think all the caps should be abolished and replaced with our proportionate approach to legislation. This approach ensures that if an organisation runs lotteries of a sufficient size to genuinely compete with the National Lottery, it would be done on a level playing field.

### Recommendation 6: A single registration for remote and non-remote

We believe (like many others) that having to register one lottery twice in order to be able to distribute tickets by paper and online is a complete nonsense. We can't see any conceivable reason for dual registration and would recommend that it be done away with. We understand that this may require primary legislation, which may make the chances of realising this change more difficult.

### Recommendation 7: Create a common regulatory framework over the whole of the UK

One of the challenges of the current lottery framework is that it is not the same in all four countries of the UK; Northern Ireland is different. This means that it's impossible for a charity working across all of the UK to run a lottery across all of

the UK. We suggest that all UK countries should have the same regulatory framework. This is far from the most important issue on the list, but yet another way in which running a society lottery is beset with difficulties.

### Box 6: Creating a weekly subscription lottery underpinned by direct debit players

The Hospice movement and Air Ambulance world appear to have discovered a really effective way to build up steady, predictable lottery income; the weekly subscription lottery\*. The idea is simple. Players are recruited to take part in a weekly lottery, typically giving £1 a week, with a weekly prize fund of £1000 to £2000. This does mean that the charity needs to be prepared to run a lottery each week and it also means that sufficient players are needed to make that size of prize fund cost effective.

The most common way to recruit new players to weekly lotteries is to use a canvasser, either on the payroll or through an agency. Unless a charity is certain of success then putting somebody on the payroll is probably too big a risk. However, an external agency may charge £50 per player recruited or more, making it longer to achieve a profit. An experienced canvasser might recruit 2,500 players a year. So, the more players that can be recruited, the quicker the lotteries reach profitability.

One charity told us how they had used their 'charity of the year' status with a major retail chain in one county to recruit new players by putting canvassers on the retail sites. Overall, they had seen their income from lotteries reach over £50,000 a month net income and now had over 20,000 regular players from a standing start five years ago. Using an ELM, they had managed to handle this growth with minimal in-house staff and to spread the costs of the campaigns.

Of all the techniques we have heard about while researching this report, the weekly subscription lottery appears to be the one that maximises net revenue for the charity, both consistently and in the shortest period of time. This doesn't hide the fact that the marketing costs to grow the players are high and, in keeping with the 80:20 rule, require a lot of good fortune, some creative accounting for costs or a tolerance from the Gambling Commission for spreading the recruitment costs over the lifetime of the players recruited.

\*Help the Hospices and the Hospice Lotteries Association have even produced their own guide

## The key organisations in society lottery regulation and services

### The Gambling Commission

The Gambling Commission is the regulating body for gambling in the UK and was set up under the Gambling Act 2005, which fully came into force in September 2007. It is an independent public body and is sponsored by the Department for Culture, Media and Sport. It regulates gambling across the UK, covering arcades, betting, bingo, casinos, gaming machines, gambling software, UK-based remote gambling operators and lotteries (with the exception of the National Lottery).

The Gambling Commission aims to regulate in three main ways: by eradicating crime from gambling, making sure gambling is fair and open and by preventing children and vulnerable people from being exploited through gambling. It issues operating licences to organisations and individuals who provide gambling facilities, supplies Licence Conditions and Codes of Practice (LCCP), assists licence holders to comply with these and provides advice to local and national government on gambling issues.

See their website for more information: <http://www.gamblingcommission.gov.uk>  
Or email [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

### Lotteries Council

The Lotteries Council was founded in 1979. It is the combined voice in lotteries of local authorities, charities, sports organisations and suppliers. It sees itself as the voice of people operating and supporting prize-led fundraising through lotteries and competitions and provides a vast network of people in this area to exchange skills and knowledge.

At the heart of the philosophy of the Lotteries Council is to help each other. Members are offered advice and guidance on all things lottery-related and have access to a wealth of knowledge and skills from its 300-plus organisational membership. The Lotteries Council Executive Officer is also on hand to guide members and point them in the right direction, whether that is from within the Lotteries Council or an external body. The Lotteries Council provides Specialist Advisors, conferences, forums and meetings to assist its members with issues, problems and developments with lotteries.

The Lotteries Council is mainly funded through membership subscriptions and its directors are elected by members to serve on the Board.

See their website for more information: <http://www.lotteriescouncil.org.uk>  
Or email: [tina@lotteriescouncil.org.uk](mailto:tina@lotteriescouncil.org.uk)

## Hospice Lotteries Association

The Hospice Lotteries Association was founded in 2009. It is a non-profit organisation with over 120 UK hospice members. It was established to help hospices that operate lotteries to share experiences and help each other. It works to help improve the lotteries offered by all its members, with the mission to provide help and support to lottery managers through shared mutual experience and ideas and to promote its members' interests in the wider society of lotteries.

The Hospice Lotteries Association aims to create a space for its members to collaborate and share experience so they can help each other to operate more efficient and successful lotteries. They hold three regional meetings a year and an annual conference, whilst also playing an active role in lotteries across the hospice sector. Furthermore, members are offered legal representation through IBAS coverage in the case of independent arbitration. It also lobbies politically.

See their website for more information: <http://www.hospicelotteries.org.uk>

## Methodology

The survey of charity professionals was carried out using an online methodology, which was distributed to our e-list of sector professionals. We do not pretend that the sample is representative of charities as a whole. We do believe that it represents a good cross-section of organisations that use society/charity lotteries. The survey was carried out in the summer of 2011 with 181 respondents to the key questions used in the charts and around 150 respondents for the other questions.

The survey with the general public was carried out online in March 2012 with a nationally representative sample of 1000 members of the Great British population.

The interviews were carried out with a range of sector experts and organisations that use society lotteries. These individuals were chosen either on the basis of their expert knowledge of charity lotteries or because of their responses to the sector survey. The size of these organisations' lotteries ranged from under £40,000 of lottery income per annum to nearly £10 million. We would like to thank all the lottery interviewees for their time and their insights. We have chosen to keep their identity confidential because of the nature of the subject matter and their views and experiences.

## Acknowledgements

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If you would like to discuss any of the issues raised in this report please contact Joe Saxton on [joe.saxton@nfpSynergy.net](mailto:joe.saxton@nfpSynergy.net)

## About nfpSynergy

nfpSynergy is a research consultancy dedicated to the not-for-profit sector. Our aim is to provide the ideas, the insights and the information to help non-profits thrive. We began with the syndicated tracking research of public attitudes towards non-profit clients. We have since grown our portfolio to include several more key audiences, alongside tailored research and consultancy programmes. We are now widely recognised as one of the leaders in non-profit market research.

**Our size and our story:** nfpSynergy was created in 2002 as a division of the Future Foundation. Two years later, the founder Joe Saxton led a management buy-out. We now have an annual turnover of £1.4 million and 18 staff members, including a variable number of interns. We also own our own premises in Spitalfields.

**Tracking research:** We run tracking surveys that monitor the attitudes and opinions of key stakeholder groups relating to the not-for-profit sector. The research is carried out on behalf of a syndicate of participating charities who share costs and data. The aim of our tracking studies is to provide lower cost, more frequent and more detailed research than any organisation could achieve by acting on its own. Our monitors include:

- 🌐 Charity Awareness Monitor (CAM) - the general public
- 🌐 Charity Media Monitor – journalists
- 🌐 Charity Parliamentary Monitor (CPM) - MPs and Lords
- 🌐 Youth Engagement Monitor (YEM) – young people
- 🌐 Brand Attributes (BA) – brand awareness among the general public

In addition, we have developed syndicated tracking studies on local authorities, politicians in the devolved bodies, the general public in the Republic of Ireland and regional audiences across England.

**Projects and consultancy:** Each year we deliver around 50 projects for non-profit clients. We carry out focus groups, conduct face-to-face and telephone depth interviews, run workshops and perform small and large scale desk research projects. Our clients include charities, housing associations and public bodies who use our research to inform their strategies and planning. Our consultancy work and projects cover a vast range. Recently, we interviewed people with learning difficulties on behalf of Mencap to help plan the launch of their new mobile phone service. We also worked for The Scout Association, who engaged us to discover why their membership had stagnated, which saw us speak to past and present members, parents and Scout leaders. Macmillan Cancer Support also came to us to help reach their ambitions for service provision and delivery and we carried out qualitative research, focus groups and in-depth interviews.

Some of our clients include:



**Social investment:** Our social investment programme runs as a thread through every aspect of our business. At its core is the range of free research reports and briefings we produce each year to benefit non-profit organisations, which can be downloaded from our website. We use evidence from our research to campaign on behalf of charities on key issues, such as reducing the costs charged by mobile phone companies for charitable donations by SMS. We also support small non-profits by providing free places at our seminars, giving talks to groups all over the UK and through pro bono research assistance. In addition, we support CharityComms (the sector body for communications) by providing them with free office space. Our approach to business shows that even a small company can put social investment at the heart of a business, contribute a huge amount to help voluntary and community organisations and still be profitable.

Topics on which we have produced free reports include:

- understanding young people's help seeking behaviour
- volunteering
- branding
- how charities use the internet and new technology
- fundraising
- governance

By producing free reports, editorials and presentations we help small charities (with little or no budget for research) to benefit from our wealth of data and knowledge of the third sector. Please see descriptions of all of our free research at [www.nfpsynergy.net/freereports](http://www.nfpsynergy.net/freereports)

As full members of the Market Research Society, we comply with their code of conduct at all times, ensuring that research is carried out in a professional and ethical manner. We also have high standards of data protection – find out more about on our website at [www.nfpsynergy.net/dataprotection](http://www.nfpsynergy.net/dataprotection)







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