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Open consultation

# Consultation on introducing an approved sale mechanism for the sale of National Lottery products by 16 and 17 year olds

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### **Ministerial foreword**

The National Lottery has made a huge contribution to life in the UK since it was launched in 1994, raising over £243bn for arts, sports, heritage and community projects. More recently it has contributed over £1.2bn to those affected by the Coronavirus pandemic, supporting everything from our outdoor spaces to our museums, theatres and sports clubs, helping to keep us active, entertained and safe.

Last year the government raised the age at which National Lottery tickets can be purchased from 16 to 18, protecting young people from the risk of gambling harm. The age of 18 is widely recognised as the age at which one becomes an adult, and gains full citizenship rights. This change was implemented by the operator and retailers in April 2021, six months ahead of the legislation coming into force on 1 October.

At the same time, the government also increased the age at which National Lottery tickets could be sold from 16 to 18. The operator and retailers have since warned that some types of sale risk being significantly impacted. For example on Saturdays, one of the main days for Lotto sales, when retailers may have higher numbers of 16 and 17 year olds at tills and checkouts and may cease or limit sales of Lottery tickets as a result.

In order to minimise the impact on retailers and offer additional flexibility, the government intends to introduce an approved sale mechanism for National Lottery tickets, similar to those in place for alcohol sales in England, Wales, and Scotland and Scotland, and sales of tobacco and nicotine vaping products in Scotland, through which a designated person over the age of 18 can approve a sale by someone under 18 years old. This approach builds on an existing framework while maintaining the intent of the original policy.

The National Lottery operator has told us that they and many of their retailers support this small easement, which I am confident will serve our twin objectives of protecting the interests of young people while ensuring that the National Lottery can continue to raise funds for the good causes it supports.

I look forward to hearing your views.

**John Whittingdale**

Minister for Media and Data

## How to respond

This consultation covers the United Kingdom. We welcome comments on these proposals from all stakeholders who may be interested and all responses will be considered.

The consultation will close at **midday on August 12 2021**.

Please send all responses to [madeleine.cullum@dcms.gov.uk](mailto:madeleine.cullum@dcms.gov.uk). The consultation questions can be found at the end of this document.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Information provided in response to this consultation, including personal information, may also be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 ("FOIA") the Data Protection Act 2018 ("DPA") and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, please identify, and provide explanation for, any information that you consider confidential and do not wish to be disclosed.

If we receive a request for disclosure of the information, we will take account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. It would need to be considered appropriate under the relevant legislation. You should note that many fax and email messages carry, as a matter of course, a statement that the contents are for the eyes only of the intended recipient. In the context of this consultation such appended statements will not be construed as being requests for non-disclosure unless accompanied by an additional specific request for confidentiality.

The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## Introduction

Since the launch of the National Lottery in 1994, there has been a consistent minimum age to both buy and sell National Lottery products. Following a public consultation in 2019, the government laid legislation in December 2020 to increase the minimum age to buy and sell all National Lottery products from 16 to 18, with the increase coming into legal effect on 1 October 2021. As anticipated in that consultation response, the Gambling Commission and the current operator of the National Lottery have implemented the new minimum age to buy earlier, and the change was made 'on the ground' for both retail and digital sales channels on 22 April 2021.

More recently, new information has emerged that the increase in the minimum age to sell National Lottery products may cause operational difficulties for some retailers employing young people aged 16 or 17. We are therefore considering introducing a minor easement to the framework under which National Lottery tickets can be sold to reduce the impact on retailers, while ensuring the protections for young people underlying the original policy decision are maintained.

An important consideration throughout has been the context of other age restricted products. Like National Lottery products, alcohol is also widely available in mainstream retailers in England, Wales and Scotland, and is sold under approved sales systems, whereby if the person selling is aged under 18 a 'responsible person' approves the transaction. A similar system is used in Scotland to approve sales of tobacco and nicotine vapour products. This consultation therefore seeks views on a similar 'approved sales' system for National Lottery products.

## Considerations for the approved sale mechanism for National Lottery products

### Impact on retailers

Following engagement with some retailers and retail trade associations via the current operator of the National Lottery, possible impacts on some retailers have been identified.

16 and 17 year olds are an important part of the workforce for many retailers, especially on Saturdays which are a peak time for National Lottery sales. Estimates from a sample of retailers collated by the current operator of the National Lottery are that the proportion of 16 and 17 year olds working in retail ranges from 2% to 12.5%, with most indicating the figure is approximately 5%.

These possible impacts are likely to vary between different sized retailers. For larger retailers like supermarkets, the possible impact lies more in the potential disruption for managers organising rotas, shift patterns and where and how National Lottery products are sold in store, e.g some retailers may no longer be able to sell directly from tills and may shift to selling in kiosks only. For smaller retailers like newsagents or convenience stores the possible issues faced may be more fundamental if somebody aged 16 or 17 is regularly in sole charge of a premises, and this is one aspect we are keen to gather more data or evidence about.

### Good cause income

Sales of National Lottery products raise funds for good causes in the arts, sports, heritage and communities sectors. The impact on good causes of increasing the minimum age to buy National Lottery products was detailed in the previous impact assessment ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/941847/National\\_Lottery\\_minimum\\_age\\_change\\_-\\_de\\_minimis\\_impact\\_assessment\\_V2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/941847/National_Lottery_minimum_age_change_-_de_minimis_impact_assessment_V2.pdf)). The different options considered in this consultation have varying impacts on good cause returns and these are detailed in turn in the accompanying impact assessment.

### Context of other age restricted products

The context of National Lottery products alongside other age restricted products was an important consideration in the original consultation and response. The framework of minimum age policies is a complex one and it is important to consider National Lottery products alongside other age restricted products available at mainstream retailers.

Many products with a minimum age to buy do not have a minimum age which someone has to be to sell the product. For example, in England and Wales there is no minimum age for someone to sell tobacco although there is a minimum age to buy of 18.

There are some instances where an approved sales system whereby if a cashier is aged under 18, a 'responsible person' can approve the sale is used. The Licensing Act 2003 for alcohol sales in England and Wales, the Licensing (Scotland) Act for alcohol sales in Scotland and the Tobacco and Primary Medical Services (Scotland) Act 2010 for tobacco products, cigarette papers or a nicotine vapour product sales in Scotland have an approved sales system.

### Proposals

This consultation sets out two options, 'do nothing' meaning the minimum age to both buy and sell National Lottery products will increase to 18 on 1 October, and introducing an approved sales system. The pros and cons of each are outlined below and more detailed information about the costs and benefits can be found in the accompanying impact assessment.

Two other options were considered earlier in the policy making process, but then discounted because they did not fit with the policy intent of providing protections for younger people from possible gambling related harm - these were reducing the minimum age to sell back to 16, and removing the minimum age to sell altogether.

### Option 1 - Do nothing

This option would continue the current policy, meaning that the minimum age to both buy and sell National Lottery products will increase from 16 to 18 on 1st October 2021 and no additional change is made.

#### For

Raising the minimum age to buy and sell National Lottery products was a policy decision made after a full public consultation. The age to sell was aligned with the increase in the age to buy in order to maintain the link as set out in the original National Lottery etc Act 1993. It is reasonable to expect that retailers will have to implement adaptations to comply with the new minimum age. Should the possible operational difficulties result in reduced sales and therefore a negative impact on returns to good causes, the government would still retain the option to reconsider the minimum age to sell and any decision would be based on more robust evidence of actual observed impact.

#### Against

The possible operational difficulties the increase in the minimum age to sell may have for some retailers only came to light after the public consultation process. Doing nothing therefore creates issues for retailers and the adaptations that some may choose to make, for example removing sales points at tills so National Lottery products are only available at specific kiosks, could result in lost sales and therefore a negative impact on good cause returns. This is therefore not the preferred approach when there is a solution based on the experience of other comparable sectors which can mitigate this risk.

## Option 2 - Introduce an 'approved sales' system

This option would introduce a system, based on the systems used for alcohol sales in England, Wales and Scotland, or tobacco sales in Scotland, whereby a transaction has to be approved should the employee be aged 16 or 17. It would be implemented with a statutory instrument by negative resolution

### For

This option presents a balanced approach between allowing retailers additional flexibility and therefore avoiding the potential loss in National Lottery sales and returns to good causes, whilst also maintaining the precautionary approach of protecting young people which was the original intent of the policy to increase the minimum age to sell to 18.

The current systems in place for alcohol sales in England, Wales and Scotland and for tobacco sales in Scotland, are comparable examples of age restricted products which are widely available at mainstream retailers such as supermarkets and convenience stores. The definition of a 'responsible person' for alcohol sales in England and Wales uses the framework of the premises licensing system, set out in the Licensing Act 2003, as a mechanism for defining who the 'responsible person' can be. For National Lottery sales, options for how this could be defined need to be developed further and could be based on that already used for tobacco sales in Scotland. Furthermore, this would not be a mandatory system, it would be a mechanism to provide flexibility for those retailers who employ people aged 16 or 17 and who may find it beneficial.

### Against

The current policy position, of the minimum age to buy and sell National Lottery products increasing from 16 to 18 in law on 1 October 2021, was decided after a full public consultation in 2019. It is therefore reasonable to expect that retailers make adjustments and adaptations in order to meet the new requirements and new legislation should not be required in order to deliver an easement. In addition it is not workable for all retailers, for example for those premises who have a member of staff aged 16 or 17 solely in charge an approved sales system would not be a workable solution. This is another area that more detailed information or evidence would be helpful to have.

## Consultation questions

1. Do you agree with the preferred option, to introduce an 'approved sales' system?
2. We are particularly interested to hear from retailers whether the proposed approach will be beneficial to your business and offer increased flexibility, and what costs, for example in terms of time, do you incur if you operate the approved sales mechanism for alcohol or tobacco products?

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