



Case Reference: FT/GA/2024/0001
Neutral Citation Number: [2024] UKFTT 967 (GRC)

First-tier Tribunal
General Regulatory Chamber
Information Rights

Heard: By Remote CVP on 23 September 2024
Decision given on: 30 October 2024

Before

TRIBUNAL JUDGE JACQUELINE FINDLAY

Between

PRAMOD KUMAR SEJJHUNDDI MAHADESH

Appellant

and

THE GAMBLING COMMISSION

Respondent

REPRESENTATION

For the Appellant:
No appearance

For the Respondent:
Mr Sam Stein KC
Ms P Ketsetzi, in house lawyer for the Respondent
Ms K Perry, in house lawyer for the Respondent
Ms T Thompson, witness

Decision

The appeal is dismissed. The decision dated 19 February 2024 to refuse the Appellant's application for a personal functional licence ("PFL") is affirmed.

The Appellant is ordered to pay the costs of The Gambling Commission (“the Commission”) as set out in the amended schedule, totalling £4833.80, pursuant to rule 10 of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (“the Rules”) on the grounds that the Appellant has acted unreasonably in bringing and conducting the proceedings.

REASONS

Procedure

1. I have conducted a hearing by CVP with the agreement of the parties. I have considered an open bundle of documents and heard a submission from Mr Stein KC.
2. The appeal was listed at 10.00am. Notice of today’s hearing was included in the Case Management Directions dated 9 September 2024. An email dated 3 September 2024 to the Appellant (pages 88 and 89) provided the details of the time and date of the hearing and a link to information about CVP. The Appellant was informed in that email about the procedure for applying for a change to the hearing date. The Appellant did not apply for a change to the hearing date. When the Appellant did not join the hearing at 10.00 am the tribunal clerk telephoned him using the telephone number provided by him. The telephone call was not answered. I waited until 10.10 am and the Appellant did not join the hearing and no message was received from him.
3. Having considered rules 2 and 36 of the Rules I considered it was in the interests of justice to proceed to determine the appeal in the absence of the Appellant. He has been given the opportunity to attend and has chosen not to do so and I have sufficient evidence to determine the appeal.

Background

4. The Appellant made an application for a personal functional licence (“PFL”) received by the Commission on 5 January 2024.

5. On 19 February 2024 the Commission refused the Appellant's application because the Commission was not satisfied that the Appellant was suitable to carry on the licensed activities. The reasons for the decision appear in the decision letter which appears at pages 3 and 4 of the bundle.
6. The Appellant lodged an undated appeal on form GRC1.

Grounds of Appeal

7. The Appellant puts forward the following grounds of appeal:
 - a. He was unable to understand the reason for the refusal of his PFL His manager explained what the problem was and he now understands his mistake.
 - b. No one told him or explained that his documents needed to be verified.
 - c. He uploaded his documents twice.
 - d. He asks that his application be reconsidered to enable him to upload the verified documents.

Grounds of Opposition

8. The Commission puts forward the following points:
 - a. Despite being given guidance and having had repeated reminders from the Commission to support his application with verified documentation the Appellant failed to support his application
 - b. The Commission's statutory guidance 'Statement of principles for licensing and regulation (June 2017)' requires applicants for licences to provide all the information it needs in order to determine whether they are suitable to hold a licence.
 - c. When considering an application, the Commission is required to have regard to the licensing objectives set out in section 1 of the Gambling Act 2005 ("the Act") whether they are likely to be compromised, and the suitability of an applicant to carry out the licensed activities.

- d. In order to form an opinion of an applicant's suitability the Commission has regard to the identity of the applicant, the integrity of the applicant, the competence of the applicant to carry out the licensed activities in a manner consistent with the pursuit of the licensing objectives, the financial and other circumstances of the applicant past and present and the criminality of the applicant.
- e. The Commission needs to establish and verify the identity of applicants using appropriate official documentation.
- f. Identity documents were not submitted as part of the Appellant's application received on 5 January 2024. .
- g. The Appellant was given every opportunity to provide the requested documentation and failed to do so.
- h. The Appellant is free at any time to make a new application for a PFL supported by the relevant and verified documentation.
- i. The decision was correct in all the circumstances and the appeal should be dismissed.

Legislative framework

- 9. The relevant legislation appears in the Act. In reaching my decision I have borne in mind that the powers of the Tribunal set out in section 144. In determining the appeal I have had regard to the relevant provision of the codes of practice issued by the Commission.
- 10. Section 127 of the Act specifies who needs a PFL and section 139 specifies the form that the application should take.

Conclusions

- 11. In reaching my decision I have taken into account all the evidence before me whether or not specifically referred to in this Decision.

12. I find that a PFL is required to work within licensed premises when working as a dealer or croupier, a cashier, an inspector, a pit boss or gaming supervisor or as security or in monitoring surveillance related to gambling activities.
13. I find that it is the responsibility of the Appellant to follow the relevant rules and regulations and it not the responsibility of the Appellant's employer.
14. I find that the Commission requests that PFL applications are complete and accurate at the point they are submitted. I find that the Commission is required to have regard to the licensing objectives of section 1 of the Act and consider whether those objectives are likely to be compromised and the suitability of the Appellant to carry out the licensed activities. I find that when making the decision the Commission had regard to the licencing objectives.
15. I find that in order to consider the Appellant's suitability the Commission must have regard to the identity of the Appellant, the integrity of the Appellant, the competence of the Appellant to carry out the licensed activities in a manner consistent with the pursuit of the licensing objectives and the financial and other circumstances of the Appellant past and present and the criminality of the Appellant. I find the Commission needs to establish the identity of the Appellant using appropriate official documentation.
16. I find that the history of the Appellant's claim for a PFL is chronologically set out in the document headed Tasks and History (pages 103 to 111) which sets out the history of the processing stages of the Appellant's application.
17. I find the Appellant did not submit the identity documents as part of the Appellant's application received on 5 January 2024.
18. I find that the Commission emailed the Appellant on 9 January 2024 requesting the verified identity documents. The email set out what documents were required and provided links to the Appellant to assist him.
19. I find that the Commission's website contains links to guides for confirmation of identity.

20. On 10 January 2024 the Appellant provided unverified copies of his Indian passport and a residence permit. On 19 January 2024 the commissions outlined the identity documents submitted by the Appellant could not be accepted due to not being verified and the Commission explained how to do this. The Commission requested that the Appellant provide verified identity documents that included his UK address.
21. On 23 January 2024 the Appellant provided the unverified documents again. The Commission emailed the Appellant on 23 January 2024 and repeated the request for the verified identity documents and that one of the documents should include his UK address.
22. On 24 January 2024 the Appellant provided the same unverified identity documents that he had previously submitted.
23. I find that the Commission email the Appellant on 9 February 2024 (page 138) stating that the Appellant needed to provide verified copies of his identity documents and that one of the documents had to contain his UK address, such as a bank statement or a driving licence. Included in the email was a link for more information on identity documents.
24. At the date of the decision the Commission had not received verified documents from the Appellant.
25. I find that the points raised by the Appellant in his appeal do not assist him.
26. In relation to the point that he was unaware of the documentation process, I find that the Commission provided ample information to inform the Appellant how to provide verified copies of his identity documents.
27. The Commission's website explains, also, what it means to certify a document, namely, that a document can be certified as a true copy by getting it signed and dated by a professional person, like a solicitor. The website sets out what documents can be certified and how this can be done and explains what documents need to be provided in support of an application to obtain a PFL.

28. I find that it was explained to the Appellant by the Commission that the documents had to be verified and where he could find further information to better understand the process.
29. It does not assist the Appellant that he uploaded documents on two occasions taking into account that the documents were not verified. I find that the Appellant was given guidance and was given repeated reminders from the Commission which he failed to act upon.
30. It does not assist the Appellant that the uploading of unverified documents was a mistake.
31. I have made an order for costs on the grounds that the Appellant has acted unreasonably in bringing and conducting the proceedings pursuant to rule 10 of the Rules. In reaching this decision I have taken into account that the Appellant did not respond to the case management directions of 11 July 2024, he failed to respond to the email dated 18 July 2024 from the Commission, he failed to request a hearing in front of a Director of the Commission and he failed to attend the hearing today without explanation.
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Signed: *J Findlay*

Date: 23 September 2024