

GAMBLING COMMISSION

Our ref: JMc/jh/101209

Nick Hurd MP
House of Commons
London
SW1A 0AA

14 December 2009

Dear Mr Hurd,

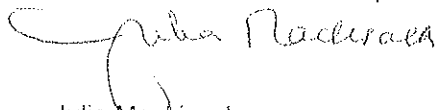
I am writing to you with regard to the reply to your parliamentary question made by the Rt Hon Gerry Sutcliffe MP, Minister for Sport on Wednesday 9 December 2009.

You had asked the Minister what payments the Gambling Commission has made to Grayling Political Strategy in the last 12 months; for what purpose; and if he will place in the Library a copy of the contracts under which such payments have been made.

In the year to November 30 2009 the Commission made payments totalling £72,304.43p. Grayling provides a broad range of communications support including public affairs, media relations, media training and press office support. A copy of the contract schedule is included for your information.

I have copied my reply to officials at the Department for Culture, Media and Sport in order that copies can be laid in the libraries of both Houses of Parliament.

Yours sincerely,



Julia Mackisack
Director of Corporate Affairs

Enc. copy of the contract schedule

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Contract Schedule between

Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP

and

Grayling Political Strategy

for the provision of Communications consultancy support

Tender reference

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NOW IT IS AGREED:

1. INTERPRETATIONS

1.1 In this Contract:-

"GC" means the Gambling Commission

"Contract" means the Contract between the Gambling Commission and the Service Provider consisting of these Agreements and any information thereto and any other documents or parts thereof specified by the GC;

"Service Provider" means the person, firm or company with whom the Contract is made;

"Services" means the services to be provided as specified in the Contract and shall, where the context so admits, include any materials, articles or goods to be supplied thereunder.

"Agreed Price" means the price, exclusive of Value Added Tax, payable by the GC to the Service Provider for the full and proper performance of the Services.

"Intellectual Property Rights" means patents, trade marks, service marks, design rights (whether registerable or not), applications for any of the above rights, copyright, trade or business names or other similar rights or obligations whether registerable or not in any country including but not limited to the United Kingdom.

1.2 The interpretation and construction of the Contract shall be subject to the following provisions:-

- * a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order regulation or instrument as subsequently amended or re-enacted;
- * the headings to Conditions are for ease of reference only and shall not affect the interpretation of construction of the Conditions;
- * references to Conditions are references to Conditions in the Section of the Contract in which they appear, unless otherwise stated;

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* where the context allows, the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa.

2. DURATION

This Contract shall take effect from 4 January 2008 and shall run until 3 January 2009, subject to GC's rights of earlier termination under the Conditions of this Contract.

3. REPRESENTATIVES

For the purpose of dealing with the Service Provider on all matters relating to this Contract, the contacts shall be:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. THE SERVICES

4.1 The Service Provider shall perform the Services in accordance with the provisions of the Contract.

4.2 The Service Provider shall be deemed to have satisfied himself as regards the nature and extent of the Services, the means of communication with and access to, where applicable, the site, the supply of and conditions affecting labour, the suitability of GC's Property and the Equipment necessary for the performance of the Services, subject to all such matters being discoverable by the Service Provider.

4.3 The Service Provider shall perform the Services with all due care, skill and diligence, and in accordance with good industry practice. Timely provision of the provisions is of the essence of the Contract.

5. AGREED PRICE AND PAYMENT

5.1 GC will pay the Service Provider fees and charges as included within Annex B for satisfactory and timely provision of the Services unless otherwise agreed in advance with GC.

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- 5.2 Invoices in respect of the amounts specified in Condition 5.1 shall be submitted to the Gambling Commission, Finance Department, Victoria Square House, Victoria Square, Birmingham, B2 4BP on such dates and at such intervals as may be agreed between GC and the Service Provider. Each invoice shall contain a detailed breakdown of the Services and the appropriate prices or rates and shall be supported by any other documentation required by GC to substantiate the invoice.
- 5.3 GC will process valid invoices without delay so as to ensure payment within thirty days of receipt.
- 5.4 The Service Provider will ensure that the foregoing provision 5.3 is included in any Contract between the Service Provider and any sub-Service Provider employed by the Service Provider.
- 5.5 The GC may reduce payment in respect of any services that the Service Provider has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the GC.
- 5.6 In addition to the provisions at Condition 5.1, GC will pay the Service Provider an amount equal to its liability for VAT properly chargeable on sums as at Condition 5.1. Invoices shall include details of VAT.
6. RECOVERY OF SUMS DUE
- 6.1 Wherever under this Contract any sum of money is recoverable from or payable by the Service Provider, that sum may be deducted from any sum then due, or which at any later time may become due, to the Service Provider under this Contract or under any other agreement or contract with the GC or with any department, agency or authority of the Crown.
7. DEFAULT
- 7.1 Should the Services or any portion thereof not be carried out within the time or times, or to the required standard, specified in or under this Contract, the GC may without prejudice to any other remedies by notice in writing to the Service Provider determine this Contract either as respects the portion of the Services which have not been carried out in accordance with this Contract at the time of such determination or as respects all the services to which this Contract relates other than those carried out in accordance with the Contract before that time, hereinafter called a relevant documentation, and in such case the Service

Provider shall not be entitled under this Contract to payment of any amount by way of compensation.

7.2 Where the GC has determined the Contract under Condition 7.1 hereof and without prejudice as aforesaid the GC may obtain all or any of the Services as respects which the Contract is so determined by arranging for those Services to be carried out by alternative means and there shall be recoverable from the Service Provider the amount by which the aggregate of the cost of obtaining Services in this way, exceeds the amount which would have been payable to the Service Provider in respect of all the Services so replaced if they had been carried out in accordance with the Contract.

7.3 In the event of the Service Provider failing to carry out any element of the Services in accordance with these Conditions, the GC shall, without prejudice to the power to terminate under this Condition or to any other remedy available under this Contract or otherwise by law, be entitled:

- a) to deduct from any invoice rendered by the Service Provider in respect of unsatisfactory Services such sum as the GC considers appropriate;
- b) to have such Services carried out by other persons and any costs incurred thereby may be withheld from any monies due to the Service Provider under this or any other Contract in accordance with Condition 6.

7.4 On the occurrence of a relevant determination the Service Provider shall, notwithstanding such determination cooperate in the transfer of the Services, to which the relevant determination relates to any alternative organisation under Condition 7.2 hereof in accordance with arrangements to be notified to him by the GC.

8. TERMINATION ON INSOLVENCY

8.1 The GC may at any time by notice in writing summarily determine the Contract without compensation to the Service Provider in any of the following events:

- a) if the Service Provider, being an individual, or where the Service Provider is a firm, any partner in that firm, shall at any time become bankrupt, or shall have a receiving order or administration order made against him, or shall make any composition or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or if

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in Scotland he shall become insolvent or no tour bankrupt, or any application shall be made under any Bankruptcy Act for the time being in force for sequestration of his estate, or a trust deed shall be granted by him for behoof of his creditors; or


- b) if the Service Provider, being a Service Provider, shall pass a resolution, or the Court shall make an order, that the Service Provider shall be wound up, or if a receiver or manager on behalf of a creditor shall be appointed, or if circumstances shall arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding-up order;

Provided always that such determination shall not prejudice or affect any right of action or remedy that shall have accrued or shall accrue thereafter to the GC.

9. BREAK

- 9.1 GC shall in addition to her powers under any other of these Conditions gave power to determine this Contract at any time by giving to the Service Provider written notice, to expire at the end of 1 month, and upon the expiration of the notice this Contract shall be determined without prejudice to the rights of the parties accrued to the date of determination but subject to the operation of the following provisions of this Condition.
- 9.2 In the event of such notice being given GC shall at any time before the expiration of the notice be entitled to exercise and shall as may be reasonably practicable within that period exercise such of the following powers as he considers expedient:
 - a) to direct the Service Provider, where work has not been commenced, to refrain from commencing work;
 - b) to direct the Service Provider to complete in accordance with this Contract all or any of the Services, or any part or component thereof, which shall be paid for a the Agreed Price or, where no Contract exists, a fair and reasonable price.
- 9.3 GC shall indemnify the Service Provider against any commitments, liabilities or expenditure which are reasonably and properly chargeable by the Service Provider in connection with this Contract to the extent to which the said commitments, liabilities or expenditure would otherwise represent an

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unavoidable loss by the Service Provider by reason of the determination of this Contract.

- 9.4 GC shall not in any case be liable to pay under the provisions if this Condition any sum which, when taken together with any sums paid or due or becoming due to the Service Provider under this Contract, shall exceed the total Agreed Price.

10. ASSIGNMENT & SUB-CONTRACTING

- 10.1 The Service Provider shall not assign this Contract nor sub-contract the Services in whole or in part without prior written approval from the GC. In giving such approval GC reserves the right to first approve the Assignee or sub-Service provider and the terms and conditions of the assignment or sub-contract.
- 10.2 No assignment or sub-contract as at 10.1 shall relieve the Service Provider of any obligation or liability under this Contract nor obligate GC to pay any monies other than the Agreed Price. The Service Provider shall be responsible for the acts and omissions of any assignee or sub-Service Provider and their employees as though they were the acts or omissions of himself or his own employees.

11. PREVENTATION OF CORRUPTION

- 11.1 The Service Provider undertakes to abide by and procure that the Service Provider's employees, servants, sub-Service Providers and agents abide by the provision of the Prevention of Corruption Acts 1889 to 1916 particularly in relation to the giving and offering of any consideration of any kind as an inducement or reward to any GC person with the intention of influencing them in the discharge of any responsibilities associated with this or any other Contract.
- 11.2 Where the Service Provider or Service Provider's employees, servants, sub-Service Providers or agents or anyone acting on the Service Provider's behalf commit such an offence in relation to this or any other Contract, the GC has the right to terminate the Contract and the GC may elect not to place any further Contracts with the Service Provider concerned and may recover any costs incurred by the termination from the Service Provider.

12. DISCRIMINATION

- 12.1 The Service Provider shall not unlawfully discriminate within the meaning of any law, enactment, order, regulation or other similar instrument relating to discrimination in employment (whether in relation to race, gender, religion, age or otherwise)
- 12.2 The Service Provider shall take all reasonable steps to secure the observance of the provisions contained in 12.1 above by all servants, employees or agents of the Service Provider and all sub-Service Providers employed in the execution of the Contract.

13. OFFICIAL SECRETS ACT

The Service Provider's attention is drawn to the provisions of the Official Secrets Acts, 1911 to 1989. The Service Provider shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed on any work in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the completion or earlier determination of the Contract.

14. USE OF DOCUMENTS INFORMATION ETC.

- 14.1 Except with the consent in writing of the GC, the Service Provider shall not disclose the Contract or any provision thereof to any person other than a person employed by the Service Provider in the carrying out of the Contract or any other person concerned with the same. Such disclosure shall be made in confidence and extend so far only as may be necessary for the purposes of the Contract.
- 14.2 Except with the consent in writing of the GC the Service Provider shall not make use of the Contract or any information issued or furnished by or on behalf of the GC otherwise than for the purpose of the Contract.
- 14.3 Any specifications, plans, drawings, or any other documents issued by or on behalf of the GC for the purposes of the Contract remain the property of the GC and must be returned on completion of the Contract.
- 14.4 In the event of any inconsistency or conflict between this Condition and Condition 13 the provisions of Condition 13 shall prevail.

15. DISCLOSURE OF INFORMATION

- 15.1 The Service Provider shall take every precaution to ensure that information about the Contract, or arising from or connected with the Contract, is divulged only to the minimum number of employees and then only to the extent essential to each person's action in carrying out the Contract. No information regarding the Services being provided under the Contract or facilities to photograph or film shall be given or permitted by the Service Provider except with prior written permission of the GC to whom any press or other enquiry or any such matter should be referred.
- 15.2 The Service Provider shall not communicate with representatives of the general or technical press, radio, television or other communications media unless specifically granted permission to do so in writing by the GC.
- 15.3 The Service Provider shall fully indemnify the GC against the costs of dealing with any claims made in respect of information subject to the Data Protection Act 1984, which claims would not have arisen but for some act, omission or negligence on the part of the Service Provider, its Sub-Service Providers, agents or staff.

16. DATA PROTECTION

- 16.1 The Service Provider shall:
- a) only act on GC's instructions in relation to Data that is or includes personal data within the meaning of the Data Protection Act 1998;
 - b) operate sufficient and appropriate technical and organisational measures to protect against unauthorised or unlawful processing of such Data and against accidental loss or destruction of, or damage to, the Data; and
 - c) comply with all obligations imposed on it under the Data Protection Act 1998;
 - d) provide evidence to GC on request of the technical and organisational measures the Service Provider has taken to comply with its obligations under this Condition.

17. ARBITRATION

Any unresolved dispute, difference or question between the GC and the Service Provider arising out of this Contract shall be referred to an arbitrator to be agreed between GC and the Service Provider or in default of such Contract to be nominated by the President of the Law Society. Such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Acts 1950, 1975, 1979 and 1996, or any statutory modification or re-enactment thereof.

18. INTELLECTUAL PROPERTY RIGHTS

18.1 Subject to the rights of third parties and to any rights of the Service Provider arising otherwise than by virtue of the Contract, all rights in the results of work undertaken by or on behalf of the Service Provider for the purposes of the Contract, including any data, reports, servicing schedules, drawings, specifications, designs, inventions or other material produced or acquired in the course of such work and copyright therein shall vest in and be the property of the GC, who reserves the right to determine whether the result to the work shall be published and, if so, on what conditions; and the Service Provider shall ensure where necessary that it secures the right to effect such vesting.

19. INDEMNITY AND INSURANCE

19.1 The Service Provider shall indemnify GC fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities in respect of any death or personal injury, or loss of or damage to property, which is caused directly or indirectly by any act or omission of the Service Provider. This Condition 19.1 shall not apply to the extent that the Service Provider is able to demonstrate that such death or personal injury, or loss or damage, was not caused or contributed to by his negligence or default, or the negligence or default of his staff or sub-Service Providers, or by any circumstances within his or their control.

19.2 The Service Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Service Provider, arising out of the Service Provider's performance of the Contract, in respect of death or personal injury, or loss of or damage to property. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Service Provider.

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- 19.3 The Service Provider shall hold employer's liability insurance in respect of Staff in accordance with any legal requirement for the time being in force.
- 19.4 The Service Provider shall produce to the GC's Representative, on request, copies of all insurance policies referred to in this Condition or other evidence confirming the existence and extent of the cover given by those policies, together with receipts or other evidence of payment of the latest premiums due under these policies.
- 19.5 The terms of any insurance or the amount of cover shall not relieve the Service Provider of any liabilities under the Contract. It shall be the responsibility of the Service Provider to determine the amount of insurance cover that will be adequate to enable the Service Provider to satisfy any liability referred to in Condition 19.2.

20. ENTIRETY

This Contract and the related information shall constitute the entire Contract between GC and the Service Provider and shall supersede all previous Contracts, regulations, correspondence and representatives whether written or oral in respect of the Services.

21. VARIATION OF REQUIREMENT

The GC reserves the right to vary the requirements of this Contract, as detailed in the Specification, should this at any time become necessary. In the event of any variation of the agreed requirement, payment under this Contract shall be subject to fair and reasonable adjustment to be agreed between the GC and the Service Provider.

22. RIGHT OF AUDIT

- 22.1 The Service Provider shall keep secure and maintain until two years after the final payment of all sums due under the Contract, or such longer period as may be agreed between the Parties, full and accurate records of the Services, all expenditure reimbursed by GC and all payments made by GC.
- 22.2 The Service Provider shall grant to GC, or its authorised agents, such access to those records as they may reasonably require in order to check the Service Provider's compliance with the Contract.

23. CONFLICTS OF INTEREST

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23.1 The Service Provider shall take appropriate steps to ensure that neither the Service Provider nor any employee, servant, agent, supplier or sub-Service Provider is placed in a position where there is or may be an actual conflict, or a potential conflict between the pecuniary or personal interests of such persons and the duties owed to GC under the provisions of the Contract. The Service Provider will disclose to GC full particulars of any such conflict of interest that may arise.

23.2 The provisions of this Condition shall apply during the continuance of this Contract and after its expiry or its termination howsoever arising.

24. AMENDMENT OF CONTRACT

No amendment to this Contract shall be binding on either party until it has been formally issued in writing by GC and the Service Provider has given written confirmation of receipt and acceptance of its content.

25. NOTICES

Any notice given under or pursuant to the Contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, facsimile transmission or email and if so sent or transmitted to the address of the party shown on the Invitation to Tender, or to such other address as the party may by notice to the other have substituted therefore, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

26. STATUS OF SERVICE PROVIDER

Neither the Service Provider nor their employees shall in any circumstances hold itself or themselves out as being the servant or agent of GC, otherwise than in circumstances expressly permitted by this Agreement or as may be agreed in writing.

27. RIGHT OF THIRD PARTIES

27.1 A person who is not a party to the Contract (including without limitation any employee, officer, agent, representative or sub-Service Provider of either party) shall not have any right to enforce any term of the Contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties which agreement must refer to this Condition 27.

27.2 Without prejudice to the intention of the parties to give no rights to the third parties under the Contract, any term of the Contract can be varied and the Contract can be cancelled or terminated without the consent of any third party who might benefit from its terms or have enforceable rights under the Contract.

28. **GOVERNING LAW**

This Contract shall be governed by and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the courts of England and Wales, to which both parties submit.

29. **BIODIVERSITY**

29.1 Tenderers' attention is drawn to the General Conditions of Contract requiring the Service Provider to take all reasonable steps to minimise and where possible avoid adverse impacts on the environment when performing the contract and to take all reasonable steps to restore, maintain and enhance biodiversity on the Departments estate or any related third party estate.


29.2 In addition to submitting a tender based on the contract specification drafted by the Commission and included with the tender documentation issued, tenderers are invited to submit variant bids that exceed the minimum environmental criteria set by the contract specification or that offer alternative solutions to meeting the specified outputs.

PRODUCTS AND PRICING INFORMATION

The below information relates to the information provided by the Contractor in their bid dated 5 December 2007.

Please see the presentation to the Gambling Commission of 5 December 2007 and subsequent financial information provided by email on 6 December 2007.

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