

**Changes to licence conditions and  
codes of practice on Alternative Dispute  
Resolution, Customer Interaction, and  
Research, Prevention and Treatment  
contributions**

**Consultation responses**

**July 2019**

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# 1 Executive Summary

- 1.1** This document summarises our response to our consultations on changes to LCCP requirements for customer interaction and alternative dispute resolution (ADR) providers. It also sets out our response to a separate consultation on the existing funding arrangements for research, prevention and treatment<sup>1</sup>.

## Additional standards for ADR providers

- 1.2** In October 2018 we published [additional standards and guidance for Alternative Dispute Resolution \(ADR\) providers](#), to supplement the requirements of the existing ADR regulations. We also signalled our intention to consult in 2019 on proposals to require licensees to use only ADR providers who meet these [additional standards](#) and the existing [ADR Regulations](#). Accordingly, we launched a twelve-week consultation in February 2019 on proposals to amend social responsibility code 6.1.1 (complaints and disputes). This was followed by a supplementary four-week consultation in which we invited respondents to comment specifically on the additional standards for ADR providers.

## Customer interaction

- 1.3** Customer interaction describes our expectations of gambling operators to identify and assist customers who may be experiencing or at risk of gambling related harm. Following a 2017 review of how gambling operators identify and interact with customers at risk of experiencing harms associated with gambling, we published [guidance](#) on customer interaction for remote gambling operators. We also signalled our intention to consult on changes in the LCCP in order to clarify outcomes and raise standards. In February 2019 we launched a twelve-week consultation on proposals to amend social responsibility code provision 3.4.1 (customer interaction) and associated ordinary code provision 3.4.2.

## Research, prevention and treatment contributions

- 1.4** In our [2018 review of research, education and treatment](#) we acknowledged that the current arrangements, which rely on a voluntary funding model, have fallen short of their objectives. To address this, we committed to improve the transparency of the amounts and destinations of RET funding, including those which are made to organisations other than GambleAware.
- 1.5** In December 2018 we launched a twelve-week consultation linked to the protection of children and vulnerable people licensing objective, proposing changes to social responsibility code 3.1.1 (combating problem gambling). We proposed that the annual financial contributions made by operators for research, prevention and treatment must be made to organisations which are approved by the Gambling Commission (the Commission).

## Next steps

- 1.4** Following careful consideration of the responses received during the consultation, we will be implementing all of these proposals with minor amendments.

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<sup>1</sup> The LCCP refers to an annual financial contribution for 'research into the prevention and treatment of gambling-related harm', this arrangement is often referred to as 'RET funding' for short. Throughout this document we use both terms interchangeably.

### Summary of changes in relation to ADR providers

We will require licensees to name only ADR providers who meet our [additional standards](#), as well as the requirements of the [ADR Regulations](#).

This change to LCCP will apply to **all licences (including ancillary remote licensees) except gaming machine technical and gambling software licences.**

### Summary of changes in relation to customer interaction

We have clarified the outcomes we expect licensees to meet to minimise the risk of harm to customers associated with their gambling. Licensees will also be required to take account of our customer interaction guidance.

These changes to LCCP will apply to **all licences, except non-remote lottery, gaming machine technical, gambling software and host licences.**

### Summary of changes in relation to research, prevention and treatment

We will require that the annual financial contribution made by licensees for research, prevention and treatment must be made to organisations which are approved by the Commission.

**This change to LCCP will apply to all licences.**

- 1.5 We will be working with those organisations currently in receipt of RET funds to further develop the process for approval that was outlined in the National Strategy and RET contribution destination consultation.
- 1.6 Having published the outcome of the consultation, we will notify those licensees affected by any of the changes by 31 July 2019. The changes for **ADR providers and Customer interaction** will come into force on **31 October 2019**. The changes for **RET contributions** will come into force on **1 January 2020**.
- 1.7 The longer implementation date for the changes to RET contributions provides bodies currently in receipt of RET funds time to seek approval, and will enable the Commission to fulfil the commitment to collect and publish data on the RET funds raised under this LCCP provision for the calendar year 2020.

## 2 Introduction

### The Gambling Commission

- 2.1** We license and regulate commercial gambling within Great Britain, including the National Lottery, with the exception of spread betting which is regulated by the Financial Conduct Authority (FCA). We exist to safeguard consumers and the wider public by ensuring that gambling is fair and safe. We are focusing on a number of priorities to achieve this as set out in our [Strategy 2018-21](#) to:
- Protect the interests of consumers
  - Raise standards in the gambling market
  - Improve the way we regulate
- 2.2** Our functions under the Act include:
- licensing operators and individuals
  - monitoring compliance with licence conditions and the law
  - investigation and enforcement, both in relation to licensees and illegal (unlicensed) gambling
  - providing advice to central and local government on the incidence, manner, effects and regulation of gambling.
- 2.3** We have a statutory duty to aim to permit gambling provided that it is reasonably consistent with the licensing objectives of:
- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
  - b) Ensuring that gambling is conducted in a fair and open way, and
  - c) Protecting children and other vulnerable persons from being harmed or exploited by gambling

## Summary of consultation responses

### 3 Alternative dispute resolution

#### Consultation proposal: requiring gambling businesses to only work with ADR providers who meet our additional standards

- 3.1** All gambling businesses licensed by us must appoint an alternative dispute resolution (ADR) provider if customers gamble directly with them. If a customer has a complaint about the outcome of their gambling, they must complain first to the gambling business and go through its complaints process. If the customer is unhappy with the business's decision, they can ask the ADR provider to look at their complaint.
- 3.2** We consulted on whether we should require licensees to use only ADR providers who meet our [additional standards](#), as well as the requirements of the [ADR Regulations](#). We considered that this would give an incentive to providers to meet our additional standards, because those that did not meet them could not be used by gambling businesses. It would also make sure that consumers received a consistent service from any ADR provider in the sector.
- 3.3** Separately, we published a supplementary consultation inviting comment specifically on the additional standards for ADR providers.

#### Summary of responses – LCCP consultation

##### Consultation question

Q1. Do you agree that we should require gambling businesses to only use ADR providers that have met our additional standards?

- 3.4** We received a total of 48 responses to this consultation from the following categories:
- Licensed operators – 14
  - Consumers – 14
  - Others (including trade associations and ADR providers) - 20
- 3.5** A large majority of respondents – 46 out of 48 – supported this proposal. Those in favour of the change generally considered that having standards in place, and the requirement to follow them, meant that consumers would benefit from a more consistent and reliable service from ADR providers.
- 3.6** Two respondents did not support the proposals. One, a consumer, did not give any reasons. The other, a licensee, thought that licensees would be at risk of breaching a social responsibility code provision if its chosen ADR provider failed to meet the additional standards. The respondent expressed concern that we would be imposing additional legal duties on licensees that could be breached by a third party (the ADR provider). This respondent, and a respondent in favour of the change, noted that the ADR standards (published in October 2018) had not been subject to a formal consultation.
- 3.7** One respondent that supported the change had concerns that enforcing the ADR standards via licence conditions on operators could be “seen as significant regulatory creep”.
- 3.8** Two respondents commented on the approach we have taken to raise standards. One thought that if there were providers not meeting the standards we should address that with those providers first, rather than “moving to a new set of additional standards ... through the LCCP”. Another suggested that providers would already be strongly incentivised to

meet the requirements in the regulations because the consequence of failing to do so would be losing all business relating to licensed gambling operators. The respondents queried whether we had considered voluntary standards and systems as a way of driving improvements.

- 3.9** One licensee was in favour of the change but raised several points in its response:
- it would be valuable for us to provide information on the ADR providers that would be impacted by these changes, and how many were expected to meet the new standards.
  - providers with our ‘extra’ approval could increase prices, and we could consider benchmarking prices to deter providers from making unreasonable increases
  - what the procedure would be if an ADR provider did not to meet the required standards
  - measures in place to make sure disputes are reviewed by the provider within a fair timeframe
  - how licensees could challenge a provider’s “inconsistent” decisions
- 3.10** The ADR standards set out some general principles around the award of compensation. One respondent thought that the industry could be “opening itself up to a compensation culture type environment that has been seen in other industries”. Another was concerned about the impact of allowing ADR providers to award compensation at their own discretion. It asked how we would ensure consistency when providers awarded compensation, and how we would determine whether the provider had recognised considerable impact on the customer and calculated the appropriate amount.

## Summary of responses – supplementary consultation

### Supplementary consultation question

Q1. Please provide any views you have on our additional standards for ADR providers.

- 3.11** There were ten responses to the supplementary consultation, seven of these were from licensees. The consultation question specifically asked for views on the additional ADR standards, rather than whether respondents were in favour of the wider proposal to require licensees to only use ADR providers that meet them. Four responses (two from operators and two from others) gave unequivocal support, saying they were “logical and proportionate” and “clear [and] concise”.
- 3.12** The remaining responses provided a variety of observations, principally on how the regulations and additional standards would be applied, rather than on the standards themselves. These covered a variety of aspects including:
- Definitions of disputes within an ADR provider’s remit (rather than being a regulatory matter)
  - Handling disputes where a consumer has self-excluded using Gamstop
  - Disputes where there are concerns around money laundering or fraud
- 3.13** Five responses (four from operators, one from a trade association) commented on an aspect that is covered by one of the additional standards – compensation. One respondent was supportive of the principles we have set out on compensation, agreed it would be exceptional rather than typical, but suggested we should reconsider our position regarding the right to appeal the amount awarded. The others raised concerns around how it might be awarded consistently across ADR providers and suggested a need for more and clearer guidance on the scope and scale of compensation.

## Our position

- 3.14** We have carefully considered the responses for both consultations and will make the change to social responsibility code 6.1.1 as originally proposed. This will require licensees to use only ADR providers that we have judged to meet our ‘additional standards’. A list of those providers will be published on our website.
- 3.15** The only direct powers we have to regulate ADR providers are those provided by the ADR Regulations. Our [review](#) of consumer complaints found that the regulations were not specific enough to drive the improvements we judged were necessary in the gambling sector. The only way we can make sure providers follow our additional standards is to require licensees to work only with providers that meet those standards. One of the goals of introducing the standards is to make sure that consumers receive a consistent level of service from providers. We do not think we could achieve this if the standards were voluntary.
- 3.16** We do not agree that these measures constitute “regulatory creep”. Some of the responses suggest there is a misunderstanding about how the new requirement would work in practice. We are not imposing additional legal duties on licensees that could be breached by a third party (the ADR provider). Licensees are not required to meet the standards. Neither are they required to check or make any judgement about whether their provider is meeting the standards in their day-to-day dealings with them. The only new requirement on licensees is that they must check their provider is on the list of those we have approved. This is very similar to, and builds on, the existing requirement on licensees in the LCCP to name an ADR provider whose name is on our published list of those approved under the Regulations.
- 3.17** All ADR providers will be impacted to some degree by these new standards. We worked with providers to develop them and make sure they are practically achievable. We do not think it is appropriate to share information about the impact on specific providers because that information is not relevant to licensees or other stakeholders.
- 3.18** It would not be appropriate for us to judge what an appropriate price would be for an ADR service; this is a commercial decision for the providers.
- 3.19** If an ADR provider has its ‘additional approval’ (or approval under the Regulations) removed we would deal with these situations on a case-by-case basis, but the process followed would be the same. We would agree a notice period with the provider to make sure it could complete or hand over any active disputes and give licensees time to identify a new provider. The notice period would vary depending on the number and complexity of outstanding disputes, and on the nature or seriousness of the reason for losing approval.
- 3.20** The timescales for providers to deal with disputes are set out in our standards and the ADR regulations. It is for the providers to decide how they manage and prioritise their work in order to meet those standards.
- 3.21** The ability for consumers and licensees to complain about ADR providers will remain the same as it is now. Ultimately, if licensees think that a provider’s decisions are inconsistent, they can choose to use another one, challenge the provider, or tell us so we can act.
- 3.22** The ADR Regulations do not prevent providers from awarding compensation. Our guidance makes it clear that we expect the award of compensation to be “exceptional rather than typical”, and that “in most cases providers will not award compensation.” The aim is to promote consistency rather than make compensation awards more frequent. We have not ‘introduced’ compensation, but instead tried to standardise the way it might be applied. ADR providers are independent third parties, therefore it would not be appropriate for us to determine whether the level of compensation awarded is appropriate, or whether it is awarded at all.

**3.23** The ADR guidance document includes three elements. It indicates the requirements of the ADR regulations, sets out our 'additional standards' and provides general guidance and information on how we expect both the ADR Regulations and new standards to be applied in the sector. The responses to the supplementary consultation provide helpful views on areas where the ADR guidance document may be reviewed and updated in future. Where respondents did make comments or identify concerns on specific aspects, the majority of these were on how the additional standards (and regulations) would be applied and not on the standards themselves. Looking at all the responses received, we do not consider that any of them identify any errors or significant flaws in the additional standards.

# Summary of consultation responses

## 4 Customer interaction

### Introduction

- 4.1** In 2017 we undertook a review of how licensees identify and interact with customers at risk of experiencing harms associated with gambling. As a result, in February 2018 we published [guidance](#) on customer interaction for remote licensees. This guidance clarified our expectations around customer interaction, set out some of the issues around identifying potentially harmful behaviour in remote gambling, and included examples of current industry practice. We also signalled our expectation that changes to LCCP would be required in order to continue to raise standards in this area.
- 4.2** We therefore committed in our Business Plan 2018-19 to consult on amending the LCCP social responsibility code provision for customer interaction, aligned with a similar commitment made in our [Review of Online Gambling](#).
- 4.3** In February 2019 we launched a 12-week consultation on proposed changes to social responsibility code provision 3.4.1 (Customer Interaction) and associated ordinary code provision 3.4.2. A separate code provision (3.4.3) which applies to all lotteries was out of scope of this consultation.

### Consultation proposal

- 4.4** We sought views on our proposal to rewrite social responsibility code 3.4.1 to focus more on the outcomes that we want licensees to achieve, that is, to minimise the risk of customers experiencing harms associated with gambling. The reworded code seeks to address three themes that have consistently emerged through our casework and compliance activity:
- Failure to identify activity which could indicate the customer was experiencing harms associated with gambling
  - Failure to interact promptly or effectively when a customer exhibits indicators of harm
  - When an interaction has taken place, little or no attempt to monitor activity or understand the impact of the interactions or to evaluate the effectiveness of policies and procedures.
- 4.4** In response to positive feedback from our remote guidance and in order to support licensees in understanding our expectations and sharing some ways to meet them, we proposed a new requirement for licensees to take account of our guidance on customer interaction.
- 4.5** We also proposed to remove ordinary code 3.4.2 and instead require those provisions to be met in different ways, through inclusion in our guidance and more appropriately facilitated through the [National Strategy to Reduce Gambling Harms](#).
- 4.6** Finally, we asked licensees to provide estimates of the costs that might be incurred through implementing the proposed changes, to inform our Business Impact Target (BIT) assessment.
- 4.7** We received 69 responses in total from the following categories of respondents:
- Licenced operators – 17
  - Members of the public - 30
  - Trade associations – 4
  - Other – 18

## Summary of responses – customer interaction

### Social responsibility code 3.4.1 (1a) - for operators to identify customers who may be at risk of or experiencing harms associated with gambling

#### Consultation questions

- Q1. Do you agree with the proposed approach that the social responsibility code provision focuses on the outcomes that gambling operators must meet – that is, to identify and interact effectively with customers who may be experiencing harms associated with gambling?
- Q2. If you don't agree, please explain why?
- Q3. To what extent do you agree with the proposed wording of the code, for operators to meet the outcome to identify customers who may be at risk of or experiencing harms associated with gambling?
- Q4. Do you have any other comments?

- 4.8 The majority of respondents agreed with our proposed overall approach for licensees to identify and interact effectively with customers at risk of or experiencing harms associated with gambling.
- 4.9 There was also broad agreement for our proposed specific wording for licensees to *identify* relevant customers.
- 4.10 Some concerns were raised around how the code would work in practice, including challenges in the retail environment in terms of monitoring activity and understanding the impact of interactions without being able to track play.
- 4.11 Some gambling industry respondents questioned enforcement of the code and cited the need for open, objective and transparent processes for taking action.
- 4.12 Respondents suggested reinstating the requirement for staff training and that the requirement should state what policies and procedures must be designed to do, and that licensees should 'facilitate' interactions with customers.
- 4.13 Concerns were expressed about the use of customer data with regard to profiling and privacy, whether this information would be shared with other licensees and whether customers would have access rights to it.

#### Our position

- 4.14 We note the specific challenges raised by respondents in relation to retail premises. Licensees should consider their individual circumstances and put in place appropriate measures to meet those specific challenges.
- 4.15 We expect licensees to demonstrate how their policies, procedures and practices meet the requirement. This can be through implementing relevant parts of the guidance or by demonstrating how implementing alternative solutions equally meet the outcomes.
- 4.16 We note the calls for a re-wording of the proposed code. However, these suggestions begin to divert the focus away from meeting the outcomes, and more towards meeting prescribed requirements.

**4.17** We do not propose that licensees routinely share individual customer data with other licensees. However, there remains an LCCP requirement for licensees to identify individual customers and this includes across other companies in their group (Social Responsibility Code 3.9 Identification of individual customers).

**4.18** We have published information on our website in relation to the [General Data Protection Regulation](#) (GDPR) but licensees should seek advice on how to achieve compliance with GDPR while meeting their regulatory responsibilities under the Gambling Act 2005.

### **Social responsibility Code 3.4.1 (1b) - for operators to interact with customers who may be at risk of or experiencing harms associated with gambling**

#### Consultation questions

Q5. To what extent do you agree with the proposed wording of the code, for operators to meet the outcome to interact with customers who may be at risk of or experiencing harms associated with gambling

Q6. Any other comments?

**4.19** There was broad agreement for this proposal via the main consultation. A smaller majority of survey respondents supported this proposal, and a significant number chose to either leave this question blank or had no opinion.

**4.20** Issues raised in terms of retail included the safety of staff and particular challenges around lottery distribution, given that operators have fewer options for customer monitoring and some follow-up activities. Respondents also cited challenges in evaluating changes among unknown or 'anonymous' customers, as well as international and very occasional customers.

**4.21** A betting industry respondent commented however that their retail betting environment was able to provide face-to-face interaction, recording of interactions, identification of appropriate times to interact and at an appropriate level and business termination route where deemed appropriate.

**4.22** Some respondents noted that not all businesses are able to offer 24-hour staffing or monitoring, or be able to carry out customer interactions in real time.

**4.23** Comments from members of the public included contacts to licensees being ignored, online chat agents not holding any level of authority, and that customer interaction depended on the customer's appetite to engage with licensees.

#### **Our position**

**4.24** We consider that the wording of the proposed code enables licensees to devise and put into effect processes that are appropriate for their business, their product and the environment, rather than being constrained by a specified set of criteria.

**4.25** Licensees should put in place measures to ensure that customers receive the same level of protection at all times while they are providing facilities for gambling. This includes identifying and interacting promptly with customers to reduce the risk of harms associated with gambling, and we expect licensees to trial and evaluate different approaches to continuously improve their approach.

**4.26** We acknowledge that there will be circumstances where an interaction cannot take place at the time it is triggered, such as if a customer's behaviour inhibits a customer interaction at the time, in which case the licensee should then interact when a customer appears to be more receptive. Licensees should ensure that their business is appropriately resourced and put in place measures to meet this requirement.

### **Social responsibility code 3.4.1 (1c) - for operators to understand the impact of the interaction on the customer and the effectiveness of the licensee's approach**

#### Consultation questions

- Q7. To what extent do you agree with the proposed wording of the code, for operators to meet the outcome to understand the impact of the interaction on the customer and the effectiveness of the licensees' approach?
- Q8. What other tools or data would be beneficial to licensees to help them understand and evaluate the effectiveness of their approach?
- Q9. And how could that be provided?
- Q10. What other types of data could be used to help understand the impact on consumers at an industry level?
- Q11. Do you have any other comments?

- 4.27** The majority of respondents to the main consultation agreed with this proposal, as did half of survey respondents.
- 4.28** We also asked what tools or data would be beneficial to licensees to help them understand and evaluate the effectiveness of their approach, and how this could be provided. A common theme was a need for more data sharing between licensees to understand how their own interactions compare across the industry, and sharing evaluation.
- 4.29** Respondents suggested that financial data such as average salaries across different industries or job roles could help assess what a customer could afford to gamble and help to identify more personalised thresholds for interaction. Other examples included general data from credit card companies, consumer feedback and surveys, more independent academic studies, use of gambling management tools and an increased use of clinical screens e.g. Problem Gambling Severity Index.
- 4.30** Suggestions also included seeking direct customer feedback, learning from current practice, in particular what is less effective, and insight from customers who access support and treatment services.
- 4.31** Some respondents welcomed the [National Strategy to Reduce Gambling Harms](#) in particular the aim to establish a data repository in order to help facilitate research into potential harmful gambling and to embed well designed approaches to evaluation.
- 4.32** Responses included developing partnerships with organisations with first-hand experience of working with service users, such as GamCare and Citizens Advice, and through commissioned research in partnership with industry and independently by industry into early detection and safer gambling. In terms of helping to understand the impact on consumers at an industry level, respondents referred to work being carried out by stakeholders such as the Remote Gambling Association working group on affordability, Gamstop and the multi-operator self-exclusion schemes data and insight from treatment and support providers such as GamCare and Gordon Moody.
- 4.33** Respondents suggested a role for the Advisory Board for Safer Gambling to provide guidance on evaluation, working collaboratively with licensees to determine best practice.

- 4.34** Respondents gave examples of their own practices, such as a review of internal controls in light of regulatory settlement statements, and use of customer interaction software applications, which are growing in number.
- 4.35** A provider of geolocation solutions suggested ways that customer devices could be anonymously tracked, to provide insight into the totality of a customer’s gambling across multiple accounts, help maximise tools such as self-exclusion and blocking and signpost to local and accessible treatment options.
- 4.36** The proposal was seen as an important development and potentially crucial for the industry’s long-term survival.

#### **Our position**

- 4.37** We welcome the range of responses which show licensees are actively considering the types of tools and data that could help them evaluate effectiveness and offered such a range of relevant examples which could assist at both an individual licensee and industry level. Further work on developing guidance, resources and support for evaluation is being taken forward under the [National Strategy to Reduce Gambling Harms](#).
- 4.38** We note that use of both general and customer specific financial data and the concept of individual affordability was raised. Our expectations around affordability have been included in our guidance on customer interaction and more detail is in our recently published [Enforcement report 2018/19](#).

### **Social responsibility code 3.4.1 (2) – for operators to take into account the Commission’s guidance on customer interaction**

#### **Consultation questions**

- Q12. To what extent do you agree with the approach to use guidance to provide good practice and support to operators to help deliver effective customer interactions?
- Q13. Do you think guidance will assist operators in developing practices to deliver effective customer interactions?
- Q14. What else would you wish to see included in the guidance?
- Q15. What other tools regulatory or less formal – do you or would you find useful to assist you in delivering effective customer interaction? This could include research and insight, copies of evaluations, sharing good practice, workshops etc
- Q16. Do you have any other comments?

- 4.39** The majority of consultation respondents and just over half of survey respondents agreed with this approach. We also shared draft guidance and asked what else respondents would wish to see included.
- 4.40** Responses included questions around the status of guidance and the consequences of non-compliance, as well as the level of engagement and the notice period that licensees would be given for subsequent changes.
- 4.41** Respondents referred to the continuing developing nature of our understanding about gambling harms, and the balance between a standardised approach and proportionate

expectations. Specific elements suggested for inclusion were coaching, practices such as suspending accounts where there are concerns and examples of what good looks like.

- 4.42 One respondent welcomed the sense of collaboration between the Commission and industry and welcomed the guidance. Another felt the availability of a reference document was vital in raising standards.
- 4.43 Many respondents called for more workshops to support formal guidance, ideally facilitated by the Commission. It was noted that our co-creation workshops had been well received and one respondent hoped that we would continue to pursue similar activities and widen the current level of engagement.
- 4.44 Other suggestions included e-learning platforms and case studies, a specialist nudge unit to look into interactions and shared analysis of Assurance Statements data.
- 4.45 Licensee led collaboration would continue to be important, and trade associations were expected to have a role particularly in the area of shared evaluation. The work of organisations offering prevention and treatment interventions was also cited as potential sources of further guidance and support.

### Our position

- 4.46 We wish to make clear that social responsibility codes hold the same weight as a licence condition. However, the requirement here is to *take into account* the Commission's guidance on customer interaction. We expect licensees to develop, implement and maintain processes to identify and interact with customers to minimise the risk of harms associated with gambling, and to understand the impact of those interactions and the effectiveness of their approach.
- 4.47 The guidance is designed to support licensees in developing those processes, which should be proportionate and appropriate to the individual business. Not every aspect of the guidance will be appropriate for every gambling business, and where a licensee chooses to implement alternatives to the guidance, they should be able to justify why and how their approach enables them to deliver the outcome.
- 4.48 As new research and good practice becomes available, guidance will be updated to reflect such developments. Any future changes to the requirements and changes to the guidance will be subject to consultation.

### Our proposal to remove ordinary code 3.4.2

#### Consultation questions

- Q17. Do you agree with the proposal to remove ordinary code provision 3.4.2?
- Q18. Do you have any other comments?

- 4.49 The majority of respondents agreed with this proposal, mainly because these provisions would remain part of our requirements and referenced elsewhere, so were not subject to total removal from our regulatory requirements.
- 4.50 It was recognised that particular aspects of the code such as collaboration would be taken forward under the [National Strategy to Reduce Gambling Harms](#).

- 4.51 Despite the level of agreement for removal, a small number of respondents raised concerns e.g. about the need for some smaller and independent licensees in particular to have these requirements highlighted, particularly for staff training.

### Our position

- 4.52 Recently, there has been a significant increase in the sharing of good practice around customer interaction across the industry, both facilitated by and independently of the Commission. The importance of collaboration and sharing of good practice is a central theme of the [National Strategy to Reduce Gambling Harms](#) and we no longer consider it appropriate to require this as an ordinary code provision.

## Amended Social Responsibility Code 3.4.1 Customer Interaction

- 4.53 Following consideration of consultation responses, we have decided to proceed with our proposed rewording of social responsibility code 3.4.1, in order to raise standards and make gambling safer for consumers.
- 4.54 Since publishing the consultation, one further amendment has been made in order to provide clarity - marked in red.

### Social responsibility code provision 3.4.1

#### Customer interaction

#### All licences, except non-remote lottery, gaming machine technical, gambling software and host licences

- 1 Licensees must interact with customers in a way which minimises the risk of customers experiencing harms associated with gambling. This must include:
  - a. identifying customers who may be at risk of or experiencing harms associated with gambling.
  - b. interacting with customers who may be at risk of or experiencing harms associated with gambling.
  - c. understanding the impact of the interaction on the customer, and the effectiveness of the Licensee's **actions and** approach.
- 2 Licensees must take into account the Commission's guidance on customer interaction.

- 4.55 In rewriting the social responsibility code for customer interaction, we also set out to create a much more comprehensive guidance document which included appropriate requirements in the previous codes as well as more detail about research and to share common and good practice to help support operators in developing their own processes and procedures for customer interaction
- 4.56 We have decided therefore to proceed with the removal of ordinary code provision 3.4.2, and instead require those provisions to be met in different ways, through inclusion in our guidance and more appropriately facilitated through the [National Strategy to Reduce Gambling Harms](#).

## Summary of consultation responses

### 5 Research, prevention and treatment contributions

#### Background

- 5.1** In our February 2018 review of research, education and treatment we acknowledged that the current arrangements, which rely on a voluntary funding model, have fallen short of their objectives. To address this, we committed in this review and in our advice to the Department of Digital, Culture, Media, and Sport (DCMS)'s Review of Gaming Machines and Social Responsibility Measures, to improve the transparency of the amounts and destinations of RET funding, including those which are made to organisations other than GambleAware.
- 5.2** At the moment, core funding to address gambling harms is through a system under which the amounts contributed by gambling businesses are voluntary and LCCP requires licensees to make an annual financial contribution to one or more organisation that delivers each of the aspects of research, harm prevention, and treatment. In practice, the highest volume of contributions is made to GambleAware. However, contributions are also made to a wide range of bodies, both within Great Britain and internationally. Some of these organisations have a clear link to the delivery of the National Strategy but the extent of their responsibilities is unclear. In some cases, the link to both the Strategy and research, prevention and treatment of gambling harm is questionable.

#### Consultation proposal

- 5.3** On 4 December 2018 we consulted under section 24 of the Gambling Act to revise social responsibility code provision 3.1.1 to introduce a requirement that the organisations receiving funds for delivering research, prevention, or treatment from licensees be subject to approval by the Gambling Commission.
- 5.3** This consultation was published concurrently with the discussion paper for the content of the National Strategy, in order to increase visibility of the proposals, and attract more respondents to give their views, particularly gambling businesses and those who receive funding for research, prevention and treatment of gambling harms.
- 5.4** In the consultation, we proposed a framework for determining whether to approve an organisation, taking into account the following three aspects:
- Does the organisation meet the basic principles of governance set out below, as appropriate for their role?
  - Is the organisation signed up to deliver one or more of the functions of research, prevention or treatment under the next national strategy, with clear roles and responsibilities?
  - If appropriate and proportionate to the role which the organisation is carrying out, is there an appropriate governance framework in place?
- 5.5** The basic principles of governance were proposed as:
- Independence: The body is independent from the industry or from undue influence as is appropriate for their role.
  - Openness and transparency: The body has open and transparent governance processes.
  - Integrity: The body has a defined interest in reducing gambling-related harms.
  - Clarity of purpose: The body commits to delivering aspects or actions of the strategy against a set timetable.
  - Effectiveness and accountability: The body commits to full but proportionate evaluation processes, against the criteria set by the strategy.

## Consultation responses

**5.6** The consultation ran from 4 December 2018 to 15 February 2019 on our online consultation portal CitizenSpace. A total of 90 responses were received, of which:

- 27 were from gambling businesses
- 20 were from respondents submitting in an individual capacity
- 11 were from charities
- 8 were from trade associations
- 7 were from local authorities
- 3 were from researchers or academics
- 1 was from a public health organisation
- and 13 were from other organisations<sup>2</sup>.

**5.7** The majority of respondents agreed with the proposed change to social responsibility code 3.1.1 although some respondents recommended that a mandatory levy was preferable. Where there were concerns, these were mainly around the process and how the change would be implemented, rather than for the principle of the change itself.

**5.8** A summary of the responses we received to the consultation questions, along with the Commission's position in view of those responses, are provided below.

### Summary of responses

Q1. Do you broadly agree with the proposed change to our requirements to give clarity to operators on where contributions made under the LCCP requirement may go?

Q2. Do you have any comments on the proposed drafting of the provision?

**5.9** A significant majority of respondents broadly agreed with the proposed change, including all respondents from charitable organisations.

**5.10** Some respondents felt that the code did not go far enough, or did not address what they considered to be the key issue, which was that this provision did not set a minimum expectation or a mandatory bottom limit on the value of an operator's RET donation.

**5.11** Other respondents meanwhile suggested a 'whitelisting' approach would be overly restrictive, and instead suggested the Commission could issue guidance on what organisations would be appropriate to make donations to. A further point of concern was that the introduction of an approval process might unfairly disadvantage organisations with a lower profile, that are smaller, that operate locally rather than nationally, or that have an existing relationship with the gambling industry.

**5.12** A small number of respondents noted that Charity Commission-regulated organisations are already required to demonstrate many of the principles that we set out in the consultation, and would hope their regulated status would be taken into account in determining whether to approve the applicant to receive RET funds.

**5.13** A number of respondents suggested that this provision would not prevent licensees from paying a token amount towards an approved organisation, while paying an equivalent or greater amount to an organisation not approved by the Gambling Commission. These operators would only be able to declare the monies paid to the approved organisation as their RET contribution, but they may still seek to gain possible reputational benefit from a relationship with the unapproved organisation.

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<sup>2</sup> This breakdown is based on how respondents described themselves from a set list of options provided via CitizenSpace, and may not reflect how the Gambling Commission itself would describe each respondent.

Q3. Do you have any other comments on the requirement on businesses?

- 5.14** Some respondents again noted their support for the introduction of a set mandatory levy. While this was particularly backed by charitable organisations, a good proportion of licensees also voiced support for this.
- 5.15** One suggestion was for the establishment of a single donation recipient body to take charge of commissioning all aspects of National Strategy activity, to allow gambling businesses total assurance that they were donating to the 'correct' organisation.
- 5.16** Some industry respondents wanted an assurance that approved organisations would demonstrate appropriate transparency, to allow licensees to assess whether donating to that organisation would be an effective use of funds.
- 5.17** A common view from respondents was that there would need to be a relatively long transition period for introducing this requirement. Industry respondents noted that donations to organisations are commonly planned on a multi-year basis, and many, particularly smaller, partner organisations rely on regular planned donations to stay afloat.

Q4. To what extent do you agree with the principles for bodies signing up to delivery of the new strategy?

**Independence:** the body is independent from the industry or from undue influence

**Openness and transparency:** the body has open and transparent governance processes

**Integrity:** the body has an interest in reducing gambling-related harms

**Clarity of purpose:** the body commits to delivering aspects or actions of the strategy against a set timetable

**Effectiveness and accountability:** the body commits to full but proportionate evaluation processes, against the criteria set by the strategy

Q5. Do you have any other comments on the proposed principles?

- 5.16** There was consistently high support for each of the five principles. Some respondents had concerns that the principle of Independence could be a blocker for collaboration between RET recipients and the industry or could mean barring individuals with an industry background as serving as trustees or directors for these organisations. Other respondents were concerned that the requirement for independence was only being considered in regard to gambling businesses.
- 5.17** Respondents had queries around how the approval process would function, including what information would be required on application, whether applicants would have the right to appeal a non-approval, what if any process would be in place for assessing the continuing suitability of an organisation after it has been approved, what sanctions could be placed on an organisation that falls short of these principles once approved, and whether there would be a process for assuring a balance in resources for all strands of the National Strategy.

Q6. We believe it is implicit that most funding under the LCCP requirement will be targeted reducing gambling harms in Britain. However, in order to promote the principle of international co-operation, we recognise there may be instances where organisations signed up to deliver the strategy are based in other jurisdictions. We are of the view that in these circumstances their work should have a clearly defined link to the impact of reducing gambling harm in Britain. To what extent do you agree with this assessment?

5.18 Most respondents agreed with this assessment.

### Our position

5.19 We are grateful to all those who took the time to respond to the consultation. We acknowledge the broad support for the proposals and note concerns where they have been raised.

5.20 The Commission is committed to pushing industry to meet their responsibilities under the current voluntary arrangements and we believe that implementation of this revised code is necessary to ensure that RET funds are targeted at the delivery of the National Strategy. It will also reduce the number of irrelevant bodies in receipt of RET funds, target funds towards efforts to reduce harms in Great Britain, and reduce the risk to licensees that they will select an inappropriate recipient in breach of code provision 3.1.1.(2).

5.21 The nature of the voluntary system means that it is beyond the Gambling Commission's remit to seek to impose a levy 'by the backdoor' by, for example, mandating a minimum RET contribution from all licensed operators. Even those licensees who make a contribution of £1 are technically compliant with the LCCP requirement, even though this brings into question whether they are acting in the spirit of that requirement or their wider social obligations.

5.22 We anticipate that the change will allow us to connect licensees to organisations that are fully committed to delivering the National Strategy, regardless of their size, and create a clear distinction between donations made by licensees to further the National Strategy, and donations made to organisations for other purposes. We remain open to organisations based outside Great Britain seeking to be designated as an approved RET recipient, dependent on them meeting the necessary requirements, and demonstrating a clear commitment to delivering the goals of the National Strategy within Great Britain.

5.23 We take on board the concern that a transition period is necessary to support continuity of existing provision and we will consider this risk in particular as we take steps over the coming months to develop the policies and processes to implement this provision. We also take on board the concerns around how the approvals process will be administered. We do not anticipate that this will be an onerous process but are committed to working further with bodies currently in receipt of RET funds to develop the eligibility criteria and process for organisations to be approved by the Commission in the future alongside an appeals process. This information will be made public well in advance of the code coming into force.

5.24 We have made a further amendment to the wording to put beyond doubt that licensees can meet their requirements under this provision by supporting bodies that commission research, prevention or treatment – even where they do not directly deliver such activity. This reflects the important principle that effective commissioning is an important part of the system, and supports effective delivery.

## Appendix A: Amended social responsibility code of practice

### 6.1.1 – complaints and disputes

**Social responsibility code provision 6.1.1 – amended version to take effect on 31 October 2019**

**Complaints and disputes**

**All licences (including ancillary remote licensees) except gaming machine technical and gambling software licences**

In this code, 'ADR entity' means

- a** a offering alternative dispute resolution services whose name appears on the list person maintained by the Gambling Commission in accordance with The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015, and
- b** whose name appears on the list of providers that meet the Gambling Commission's additional standards found in the document 'Alternative dispute resolution (ADR) in the gambling industry – standards and guidance for ADR providers'.

Both lists are on the Commission's website and will be updated from time to time.

The existing paragraphs of this section of the LCCP will be unchanged.

## **Appendix B: Amended social responsibility code of practice**

### **3.4.1 – customer interaction**

**Social responsibility code provision 3.4.1 – amended version to come into force on 31 October 2019**

#### **Customer interaction**

**All licences, except non-remote lottery, gaming machine technical, gambling software and host licences**

- 1** Licensees must interact with customers in a way which minimises the risk of customers experiencing harms associated with gambling. This must include:
  - a** identifying customers who may be at risk of or experiencing harms associated with gambling.
  - b** interacting with customers who may be at risk of or experiencing harms associated with gambling.
  - c** understanding the impact of the interaction on the customer, and the effectiveness of the Licensee's actions and approach.
- 2** Licensees must take into account the Commission's guidance on customer interaction.

## Appendix C: Amended social responsibility code of practice

### 3.1.1 – combatting problem gambling

#### **Social responsibility code provision 3.1.1 – amended version**

#### **Combating problem gambling**

#### **All licences**

***This provision will come into force on 1 January 2020***

- 1** Licensees must have and put into effect policies and procedures intended to promote socially responsible gambling including the specific policies and procedures required by the provisions of section 3 of this code.
- 2** Licensees must make an annual financial contribution to one or more organisation(s) which are approved by the Gambling Commission, and which between them deliver or support research into the prevention and treatment of gambling-related harms, harm prevention approaches and treatment for those harmed by gambling.

July 2019

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