

# Unexplained Wealth Orders Add Bite To UK Casino Whale Watching

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UK casinos serving high net worth clientele have been warned again not to let their anti-money laundering (AML) controls slide as authorities roll out a new weapon targeting sources of wealth in the fight against economic crime.

Operators have been told to stay alert to the possibility that a gambler or their family member or associate might be the subject of an unexplained wealth order (UWO) when undertaking enhanced due diligence, even if the new measures may prove more difficult to track in future when they become more widely used but of less interest to the public.

On October 3, 2018, the UK's high court upheld a decision to grant the National Crime Agency's (NCA) application for a UWO against a former Azerbaijani state banker, Jahangir Hajiyeve, accused of corruption, requiring his wife, Zamira Hajiyeve, to explain the purchase of properties worth £22m.

The high-profile case was the first of its kind, and now Hajiyeve, who spent at least £16m in the department store Harrods over the course of a decade using cards issued by her husband, faces the prospect of having a five-bedroom house worth £11.5m, and the Mill Ride golf and country club in Ascot which she bought for £10.5m, seized unless she explains where the money came from.

"The issue of unexplained wealth itself is central to AML/CTF controls and responsibilities and will form a basis for suspicious activity reports submitted by gambling operators to the NCA as well as (a) refusals by them to accept business from customers or potential customers and (b) termination of business relationships," said David Clifton, founding director of Clifton Davies Consultancy Limited. "It also raises obvious social responsibility/problem gambling questions for gambling operators," he told GamblingCompliance.

The Hajiyeve decision was the first challenge to a UWO, and as the court sided with the authorities, lawyers said prosecutors will be emboldened by the result and seek to use the tool with increasing regularity.

"An interesting dimension to the UWO is that although they are aimed at asset confiscation they are also a useful investigative tool," said Hannah Laming, business crime partner at Peters & Peters law firm in London. "They are a powerful means of obtaining information about an individual's assets and economic activities before any formal criminal investigation has been launched against him," she told GamblingCompliance.

UWOs are legal orders used by investigators to force a person to explain how they obtained a particular asset, and can be used to compel that individual to disclose sensitive and previously opaque details of their financial history. They originate in the United Kingdom and are only available to UK authorities.

Although the individual concerned is usually a so-called politically exposed person under money laundering laws, it also applies to their family members, close associates and others connected to them, potentially casting the net far more widely than many standard customer due diligence checks.

It is estimated by HM Treasury that up to £90bn is laundered through the UK per year, and UWOs were introduced as part of a raft of new measures to aid asset recovery and stop the flow of illicit funds.

In recent years, the EU has introduced new AML laws, in the shape of the 4th and 5th Anti-Money Laundering Directives, which created new obligations for online casino and betting operators, but did less to change the thresholds of scrutiny for land-based casinos.

In terrestrial gaming locations in the UK, it is usual for customers who spend or win more than £2,000 to be subjected to identity checking, but UWOs have the potential to trigger additional scrutiny beyond that demanded by existing AML regulations.

The Gambling Commission has repeatedly warned against operators leaning too heavily on whales to prop up their business given [the risk factors involved](#).

In February, Sarah Harrison, the former CEO of the Gambling Commission, told GamblingCompliance she was [deeply concerned](#) that many businesses with customers who spend a lot of money are not asking enough questions about where that cash came from.

"UWOs are used to target individuals whose assets do not appear to be commensurate with known sources of income for that individual," said Fred Saugman, white collar lawyer at WilmerHale.

Successful gamblers may win significant sums of money, which could distort their known income streams and prompt further scrutiny if they are subject to an investigation, he said.

In other jurisdictions where the UWO regime is more established, such as Australia, the casino sector has been a conduit for gamblers looking to hide their source of wealth.

“Individuals served with a UWO have readily been able to discharge the burden of explaining their wealth by pointing to an unexpected bonus that is not declarable to the tax authorities, such as gambling winnings,” said Jonathan Fisher QC of Bright Line Law. “It has been sufficient for respondents to point to gambling and or horseracing winnings, gifts or inheritances received from abroad as lawful sources of wealth.”

Where assets are bought with the proceeds of gambling, the lack of recordkeeping or HM Revenue & Customs involvement may give cause to query how assets were obtained, said Saugman. “However, I don’t think the authorities would bother with anyone they did not reasonably suspect of involvement in serious crime,” he added.

As the UK UWO regime is still in its infancy, Saugman suggested the vast majority of orders would likely be brought against public officials where there is a parallel suspicion of involvement in serious crime, as there was in the recent case of Mr and Mrs Hajiyeu.

“Of course, there will be people who are wrongly suspected of involvement in serious crime,” he said. “And what of the successful politician gambler? There are still hurdles for the authorities to clear that should protect these groups from unwarranted civil proceedings.”

He said from the perspective of casinos, ensuring maximum compliance with all existing AML regulations is essential, as this would cover the concerns that prompted the introduction of UWOs.

A spokeswoman from the UK Gambling Commission said: “We require all operators licensed by the Gambling Commission to prevent gambling from being a source of crime or disorder, being associated with crime and disorder, or being used to support crime.”

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