GAMBLING COMMISSION

Proposed amendments to LCCP for all operators in relation to the prevention of crime associated with gambling

Consultation response

1.1 This template is provided for responses to the Gambling Commission's consultation on *Proposed amendments to licence conditions and codes of practice (LCCP) for all operators in relation to the prevention of crime associated with gambling*. Please use this template if possible.

1.2 The templates leaves space for responses to all the questions asked in the consultation. However, we understand that respondents to the consultation may wish to answer only those questions which are relevant for their business, organisation or interests.

1.3 All responses should be sent by email to consultation@gamblingcommission.gov.uk by **30 December 2015**.

Alternatively, responses can be sent by post to:
Consultation co-ordinator
Gambling Commission
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1.4 If you are responding on behalf of an organisation, please indicate which type of organisation:

Industry body		Regulatory body	
Government body		Charity	
Local authority		Help group	
Academic institution		Faith group	
Other (please specify)	Campaign organisation		

1.5 If you are responding as an individual, please indicate your own interest:

Section 2.1 – 2.19 of the consultation:

Provision of information to the Commission about gambling related crime

Q1. What are your views on the introduction of an additional "key event" obliging operators to provide information to the Commission about investigations of crimes committed against them, crimes committed by their staff or crimes committed using its gambling facilities (for example, spending or laundering the proceeds of crime)?

Whilst the Commission highlights the weaknesses in the existing guidance laid down in the LCCP [15.2.1 reporting key events], it is a significant failing of the Commission itself that after a near decade of regulatory control, these failings are only now being addressed and the Campaign for Fairer Gambling (CFG) question whether the proposals under this consultation are even sufficient.

The Commission states that "*the limitations of our existing reporting requirements mean that operators do not always provide some information necessary for us to undertake our statutory functions effectively in terms of keeping gambling free from crime and from being associated with crime".* This failure to collect and collate data on crime was inevitable given that within section 15.2.1 the only specific aspect that relates to crime is in respect of disclosures under the Proceeds of Crime Act 2002 and the Terrorism Act 2000 and even this only requires the submission of a unique reference number relating to each Suspicious Activity Report (SAR) submitted by operators to the National Crime Agency (NCA). Given the breadth of possible crime that could impact gambling, as noted in this consultation, the narrow descriptive contained in the existing LCCP has historically given operators the clear opportunity not to report crime. It is quite shocking, given the three licensing objectives enshrined in the Gambling Act 2005 and what are the underlying principles of regulation for which the Commission was established, that these weaknesses exist and are only now being consulted on.

As with the case study set out as an example and for which the Commission notes: *"In the majority of cases, licensees themselves did not make the Commission aware of information about the gambling-related crime involved, at present, there is no clear requirement in LCCP for them to do so".* However, the example, which it is clear relates to the incident that took place in Coral betting shops located in the North East of England, should have resulted in a SAR being submitted to the NCA and as per the LCCP guidance a Unique Reference Number (URN) specific to that SAR should have been received by the Commission. The Commission is effectively confirming that even basic procedures already contained in the LCCP concerning proceeds of crime were not instigated. It is understood by the campaign that the individual involved in this case not only transacted the proceeds of crime, but that he was also a pathological gambling addict who was committing crime in order to fund his gambling addiction. This means that Coral not only failed in respect of keeping crime (and the proceeds of crime) out of gambling, but they failed in their social responsibility to a customer suffering harm because of gambling.

In respect of the proposed additional key event to be inserted at 15.2.1 and the requirement for the event details to be reported within 5 days of occurrence, we support this addition. However, the Commission, provided the operator is compliant in respect of proceeds of crime, should already be notified of any unique reference number raised through submission of a SAR to the NCA. The Commission does not, however, provide any data on volume of SAR's, breakdown by sector, by operator nor correlation with final outcomes. As is already clear, the failure in requirement for operators to report crime, alongside known historical failures as highlighted by the Commission, shows that since implementation of the 2005 Gambling Act there has been no effective oversight of criminal activity and proceeds of crime across the gambling sector and

given the high level of concern regarding B2 machines and their capacity for anonymous large volume cash transactions, this should be a cause for concern and a need for greater transparency were any data is available.

The Commission has historically absolved itself of responsibility for what it terms "lower priority incidents" which generally occur on gambling premises and include violent attacks on machines, and abuse and attacks on staff. It is clear from this consultation as it is in meetings with representatives of the Commission, that approach is to be continued with more emphasis being placed on Local Authorities dealing with these "lower priority" incidents. The Commission is purposely ignoring this element of crime on gambling premises, specifically betting shops which account for 97% [11,232 in 2015] of all Police call outs to all gambling premises in the UK, in order to mask further evidence being revealed of a particular gambling product causing harm.

When 93 Local Authorities unite, vote to call for action on FOBTs and that is spurred by the visible evidence they can see on their high streets from "lower priority" incidents in or around betting shops then the Commission in this consultation is showing total disregard toward the views of those 93 licensing authorities, the hundreds of Councillors who voted for action and the 23 million of people they were elected to represent.

As was stated by Brad Enright in the Commission's meeting with the CFG on 24th November 2015, 0.4% of B2 machines suffer some form of damage or physical attack requiring repair each week. This will equate to circa 7,000 B2 machines per annum and is an extraordinarily high level that should raise questions not about "lower priority" incidents, but a gambling product that appears to be driving criminal behaviour in betting shops. The personalisation of machines leading to abuse of them is cited as a characteristic of problem gambling. Not only should the Commission want to understand what the link is between attacks on machines and the extremely high level of Police call outs to betting shops, it should also want to evaluate this type of behaviour toward machines by each of the relevant category levels, non-remote provider of them and how this compares to their operating location and in association with the regulatory pyramid.

Yet the Commission advises that *"Licensees should report these incidents to the proper authorities, but are not required to report them to us, where they are not linked to the first licensing objective".* The first licensing objective, as the Commission notes, states "to keep gambling free from crime (and from being associated with crime)". Whilst we agree that the details of each incident would not need reporting, the cumulative number of incidents on premises, specifically against machines, by each non remote operator providing at least category B, would provide a level of insight into consequential gambling led criminal behaviour.

This data, in line with the developing ethos as per the recent Responsible Gambling Strategy Board's (RGSB) consultation on its 3-year policy statement, would shed some light on the impact of the product in association with its consumer.

Q2. For operators, what information about gambling-relating crime does your organisation already record centrally, and in what form?

N/A

Q3. What are your views on the most proportionate way to ensure that the Commission is provided with information about gambling-relating crime in a way that strikes an effective balance between the need for this information and the regulatory burden that providing it would impose?

It should not be considered to be a regulatory burden on operators, whether asking them to provide overall data on "lower priority" incidents or more detailed immediate information on higher priority incidents. It should be for the Gambling Commission to gather that information, firstly to determine whether the licensing objectives have been impacted and secondly to interpret the levels of criminal behaviour and their causes or associations with particular products or environments. Considering the licensing objectives and their importance to achieving a crime and harm free gambling landscape, no justification can be applied to the argument of over regulation.

Q4. Do you consider the proposed wording above to be sufficiently clear on what kinds of gambling-related crimes the Commission would expect to be provided with information about? If not, what wording or additional guidance would be helpful?

No. The focus of the money laundering aspect of upholding the "keeping crime out of gambling" objective relates to how the act of money laundering is perceived by operators and their staff as the actual crime. There is little focus on the proceeds of crime and the gambling associated with it.

If someone commits a crime to obtain funds to gamble and the operator accepts those funds in return for gambling activity on their premises or remote platform, that is proceeds of crime and crime associated with gambling. The use of proceeds of crime will take place across all sectors whether land or remote. It is invariably difficult for operators or their staff to detect and therefore is an aspect of the crime objective that is not given as much prominence. Certain gambling environments, particularly betting shops because of their dominance in terms of numbers on the high street and in localities with certain characteristics, attract a substantial cash orientated customer base. The CFG, along with a number of Local Authorities, has asserted that there is a strong correlation with the cash based low level drugs and criminal economy in certain areas and betting shops. It is no coincidence that the number of betting shops and B2 gaming machines operating in these areas is higher and again likely relative to the high level of Police call outs and machine attacks.

As an aside to the consultation question, the CFG would like to express concern that certainly within the land based betting sector there is an inherent ignorance toward proceeds of crime at a micro shop level. Use of money obtained from low level drug sales for cash gambling, particularly on machines, is widespread and well known certainly at mid to junior management level within the major betting operators. Whilst this consultation cannot address operational ignorance to this aspect of proceeds of crime, better information on identifying hot spots for such activity could be gathered through the data we suggest the Commission should already be collating.

Section 3.1 – 3.9 of the consultation:

Anti-money laundering – Assessing money laundering risk

Q5. Do you agree that it should be a condition of an operator's licence that they undertake an assessment of money laundering risks?

The CFG agrees with and supports the proposal to make it a condition of an operator's licence to undertake an assessment in respect of their risk from money laundering. However, given the view of the Commission that there have already been "*shortcomings in licensee's procedures*" it is not sufficient for those assessments only to be shared "on demand". Money laundering risk assessments and the proposed strategy to deal with and mitigate those risks, in particular for larger scale operators, should be shared with the Commission and associated enforcement bodies, for best practise across the industry and to ensure historic failings in this area are not repeated.

Q6. If you are an operator, do you already undertake a money laundering risk assessment or would the proposed licence condition require significant additional work?
N/A

Q7. Do you have any comments on the draft addition of the licence condition requiring licensees to conduct and review money laundering risk assessments, and devise an action plan to mitigate the risks?
B2 gaming machines numbering c35,000 are the dominant category of machine operating in c9,000 betting shops across England, Scotland, Wales and Northern Ireland. As the Commission notes in this consultation there have been serious failings in operational procedures across the gambling industry but particularly in the betting sector. With regard to B2 machines the Commission has stated previously: "*In our view, a retail betting model that includes high volumes of cash transactions, particularly where this includes low individual spend and a high level of anonymity, presents a high inherent money laundering risk, especially where that model also offers B2 gaming machine play as a substantial part of the gambling facilities available to customers and where this is widely available through multiple premises across a spread of betting operators. It is the accessibility, volume of business and general anonymity of play that presents the inherent risk in our view".* Given the Commission's view, this licence condition could be extended to machine suppliers, specifically encompassing the two suppliers of c68% of land based machines, B2s. Provision of machines today goes beyond just siting a cabinet. Suppliers of machines, in particular B2s, are involved in data collection, analysis, monitoring and reporting. The management of machine income is a dual operation and mitigating the risk of money laundering is one that the Commission should recognise is also a shared responsibility.

Section 3.10 – 3.12 of the consultation:

Due diligence checks on customers

Q8. Do you agree that identifying customers is an important measure to manage heightened money laundering risks presented by specific customers?
We agree that identifying customers is crucial to managing risk from money laundering. However, for easily accessible high street gambling venues it is not clear how identification of customers, especially those presenting a heightened risk, would be achieved. The prevalence of low level drug users and those who are part of the criminal cash culture represent a high proportion of frequent visitors to betting shops especially in certain areas. The CFG believes there is a correlation between betting shop clustering, B2 machines and areas where there is high drug use, therefore the sale of drugs and criminality. The extent to which the bookmakers have encouraged their customers to sign up for account based play is not yet known, and even under the current card schemes available none make extensive checks on personal details and, unless mandatory with accredited checks, they will be of limited efficacy in monitoring the risk of money laundering. The adaptation by some betting operators of their loyalty cards and loyalty card accounts into cash top up cards transferable to their remote platforms is a new development that will present

challenges regarding money laundering and proceeds of crime, however much identification procedures may mitigate these challenges.

Q9. Do you have any comments on the draft addition of the licence condition requiring licensees to identify customers where there is a heighted risk or money laundering and to satisfy themselves about the legitimacy of the customers' funds?
The CFG raises concern as to how this would be effectively implemented across easily accessible, cash based gambling venues particularly betting shops.

Section 3.13 – 3.17 of the consultation:

Customer monitoring across products and platforms

Q10. Do you agree that, in order to have a comprehensive picture of customer risk, it is necessary to monitor customers across all the operator's outlets, platforms and products?
The CFG agrees.

Q11. Do you think that an ordinary code provision is necessary to address this need?
This question indicates that the Commission is unsure whether making this an ordinary code provision is going too far in terms of regulation. The CFG believe this is not going far enough and that customer monitoring across platforms should be a licence condition, rather than a code provision and applied to classes of operating licence that represent the greatest risk. Betting shops already represent a high level of risk due to their provision of high cash transaction gaming machines – a risk confirmed by the Commission. The land based betting sector is currently engaged in shifting their cash orientated land based customers, where there are already known to be issues around money laundering and proceeds of crime, to their remote platforms via highly contentious "top up" accounts. Given that this creates an easily accessible cash transfer facility from high street betting shops to remote accounts and back again, it is imperative applicable to land based betting operators that building a "*comprehensive picture of customer risk*" ought to be a general licence condition. For those operators, like Coral who have been found lacking in their money laundering procedures, if a general licence condition is considered too much of a regulatory burden, it should be applied as an individual licence condition on those operators like Coral who clearly represent the greatest risk.

Section 3.18 – 3.20 of the consultation:

Other reportable events – discontinuing a business relationship with a customer as a result of money laundering concerns

Q12. Do you have any comments on the proposal which will require operators to report on the number of customers where they have ended the business relationship due to money laundering concerns?
The CFG welcome this proposal, but with two concerns. Firstly, if there is perceived risk from a single customer that due diligence cannot minimise and the decision to cease business is taken, then there appears to be no provision for alerting enforcement bodies of the decision. Deciding to cease business with a customer, based on risk of money laundering or proceeds of crime must justify, aside from sharing the information and notifying total numbers, raising a SAR. The second concern is whether operators use due diligence under the guise of money laundering risk to discontinue a trading relationship for other business reasons. The well-publicised problem of betting operators closing accounts to prevent customers betting with them,

effectively terminating a business relationship, is a separate issue, but all instances where historic trading accounts are terminated by the operator should be reportable and not left to the operator to use risk from money laundering as justification for this action whilst at the same time not including these in the proposed reporting procedure.

Q13. How far would such a requirement add to the regulatory burden on operators?

The three principles which are the foundation of the 2005 Gambling Act and which are the guiding principles of the Gambling Commission in its regulatory role should be upheld and enforced without over consideration of the burden on operators. The Commission appears to favour less regulatory burden on operators which will invariably lead to the failures witnessed so far in the Commissions decade of regulatory control over gambling in the UK. This approach is why the Commission has been considered not fit for purpose under the leadership of Jenny Williams and Matthew Hill.

Section 3.21 – 3.23 of the consultation:

Anti-money laundering measures for operators based in foreign jurisdictions

Q14. Do you have any comments on the draft new licence condition for remote casino operators who have remote gambling equipment located outside of Great Britain?

No response

Section 3.24 – 3.27 of the consultation:

Cash and cash equivalents

Q15. Do you think that licence condition 5.1.1 is now clearer?

No. The CFG dispute the removal of “handling”, but agree that the Commission has identified another area where operators are clearly using definitions to avoid culpability and responsibility. For example, in the anonymous case cited it is clear that the operator in question was not considered culpable because they had carried out the minimum required on the narrow guidelines (and wording) under the previous condition. At each point in the process of money laundering, there are a series of events, transactions, handling processes and financial data recording that present opportunities for its detection. Those opportunities for detection are only available to the operators. It is therefore preferable to ensure that as many of these processes are encompassed in the revised wording so operators’ historic use of smoke and mirrors around the definition of conditions is not allowed to continue.

Q16. Do you have any views on the licence condition as redrafted?

The CFG suggest the following additions to the Commissions’ revision:

5.1 Handling and usage of cash and cash equivalents

Licence condition 5.1.1

Handling of Cash and cash equivalents

All operating licences (including remote betting intermediary (trading rooms only) licences), except gaming machine technical, gambling software and remote licences

1 Licensees, as part of their internal controls and financial accounting systems, must have and implement appropriate policies and procedures, through all levels of management, concerning the handling and usage of cash, and cash equivalents (eg bankers drafts, cheques and debit cards and digital currencies) by customers, designed to minimise and detect the risk of crimes such as money laundering, to avoid the giving of illicit credit to customers.

Section 3.28 – 3.31 of the consultation:

Linking means of payment of stake to payment of winnings

Q17. Do you have any views whether we should introduce a licence condition to cover this risk, and what it should contain?

The CFG contends that anonymous cash gambling in betting shops (the dominant land based gambling venue in the UK) presents an enhanced risk of money laundering directly related to B2s and their capacity for the transaction of high volumes of cash combined with the opportunity to wager with minimal risk. Evidence already available and published by the Commission supports this, combined with wider research and GeoFutures mapping that shows strong correlations between the location of betting shops, certain categories of crime and also deprivation, unemployment and higher welfare dependency.

The introduction of loyalty/account cards adaptable for cash top up and transferable from betting shop to remote gambling activity significantly increases the risk of money laundering at a local high street level and the CFG argues strongly that the most attractive land based platform for transacting laundered cash is B2s.

The CFG's argument is borne out by the innuendo created by William Hill around the launch of their pre-paid Mastercard. William Hill Director of Innovation, discussing the launch of the Mastercard said: "*Some of our customers who've pulled off a big win might also want to spend their money on the kind of entertainment they may not want on their joint-bank account statement*." They went on to add: "*It also allows those who want to keep their betting balances and their bank balances separate with less withdrawals on bank statements and more freedom to spend bet winnings without any explanations required*."

The weakness in preventing money laundering is greatest when it involves cash and more so when that facility allows for anonymous or unchecked cash transactions being converted to what is effectively electronic currency that can be used "*without any explanations required*". The implications of this for money laundering are obvious and it is irresponsible messaging on the part of William Hill when considering how this messaging would be perceived by those most at risk of harm from gambling.

The CFG therefore argue that a specific licence condition is required emphasising stricter control over cash being converted via top up or pre pay facilities to electronic currency. Given the demographic that will be targeted by the operators there also has to be concern around responsible provision and use and how the potential for harm will be minimised given William Hills advice that customers have the freedom to use these cards to keep certain transactions off their "*joint bank account*".

Q18. Do you think that this requirement should be limited to cash stakes only?

Yes, the CFG agrees that cash stakes represent the greatest risk and a licence condition should be limited to this type of transaction and the gambling environments and operators providing facilities for these movements of cash.

Q19. Do you have any other views on how to manage risk in this area?
It is clear from this consultation that management of risk associated with crime and particularly money laundering would be most effective under a regime of mandatory account based play for all customers. This has been the Commission's view for some time and has been repeatedly espoused by Commission officers. In respect of remote operators, they already operate by choice and necessity under such a regime. The area of contention for the Commission is land based cash gambling. Whilst the CFG agree that managing risk in this area would be best achieved by mandatory account based play, the CFG disagree with the requirement for such across all forms of land based gambling. The CFG argues that circa 35,000 B2s in the circa 9,000 betting shops represent the greatest risk and as such would support mandatory account based play as a condition of use for category B2 machines.

Section 3.32 – 3.34 of the consultation:

Current ordinary code provisions for anti-money laundering

Q20. Do you have any views on whether the Commission should change the status of these ordinary code provisions to make them licence conditions, requiring all operators to comply with the anti-money laundering guidance or advice issued by the Commission?
An ordinary code provision is not sufficient considering a breach has the potential to impact on the licensing objective of keeping crime out of gambling. Though the Commission advises that "*failure to take account of them [ordinary code provisions] can be used as evidence in criminal or civil proceedings*", there is no evidence of such action against an operator and if the Commission maintains this status it is effectively passing the buck for responsibility in an area fundamental to the Gambling Act. The CFG therefore supports making this ordinary code provision either a general licence condition or social responsibility code provision.

Section 3.35 – 3.42 of the consultation:

Revised guidance for non-remote and remote casinos on preventing money laundering and combating the financing of terrorism

Q21. Do you have any comments on the revised sections of the guidance document?
Given the concerns outlined in respect of betting shops and B2s, the CFG would support inclusion of the land based betting sector under the proposed regulations contained under the upcoming EU 4 Money Laundering Directive. The revised guidance for non-remote and remote casinos, whilst welcome, will have no bearing on betting shop operations at the moment nor in the future, unless they are included in the EU 4 Directive when incorporated into UK legislation in 2017. Remote casino operators who conduct all gambling activity and credit/debit transactions electronically, are able to use that data, corresponding to customer accounts to monitor for possible risk of money laundering. B2s operated by bookmakers, though most activity is cash driven and not linked to a verified customer account, have similar data that could be analysed by the two suppliers to detect potential geographic areas for money laundering based on game play characteristics and correlated return to player. This may not isolate specific perpetrators, but would identify localities where money laundering may be more prevalent and is information that should be shared with the appropriate authorities.

Q22. Do you have any comments on the new sections of the guidance document?
No response.

Q23. Are there any other areas which you think should be covered in the guidance?
No response.

Section 4.1 – 4.11 of the consultation:

Responsible placing of digital adverts

Q24. What are your views on introducing a requirement, potentially via a Social Responsibility code provision, for licensees to take all reasonable measures to ensure that digital adverts placed by themselves, or third parties, do not appear on copyright infringing websites?
No response.

Q25. What are your views on introducing an ordinary code provision on measures licensees should consider taking to prevent adverts appearing on illegal sites, such as the use of commercial content verification software?
No response.

Q26. What other steps or measures do you think could be considered?
No response.

Section 5.1 – 5.6 of the consultation:

Misuse of insider information by industry personnel

Q27. What are your views on the introduction of new ordinary code provisions advising betting operators that they should put in place new employment terms and conditions to require employees to report indicators of suspicious betting and impose restrictions?
No response.

Q28. What are your views on the introduction of a new ordinary code provision to advise betting operators that they should include a clause to state that breaches of sports or other rules will also constitute a breach of the operator's customer betting terms and conditions?
No response.

Section 6.1 – 6.14 of the consultation:

Digital currencies (often referred to as virtual currencies or cryptocurrencies, eg Bitcoin)

Q29. Looking at the challenges in the use of digital currencies listed above, do you see any omissions or oversights? What are your views on the validity of those challenges?
No response.

Q30. How might these and any other challenges that you have identified, especially those associated with AML, be mitigated?
No response.

Q31. Given the potential difficulty in identifying customers and managing AML risks, what would be the potential benefits in the use of digital currencies compared to the extra compliance work involved?
No response.

Q32. Do you see the business drivers to use digital currencies increasing or diminishing, and to what extent?
No response.

Q33. What additional AML measures might be needed when accepting deposits from a payment intermediary where their source is digital currencies?
No response.

1.6 Please note that responses may be made public or published in a summary of responses of the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

1.7 Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at www.gamblingcommission.gov.uk.

The Commission will treat information marked confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority the Commission must comply with the requirements of FOIA and must consider requests for information made under the Act on a case-by-case basis. Therefore when providing information, if you think that certain information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.

1.8 All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments or agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.