

Consultation and Call for Evidence

Remote customer interaction requirements and guidance

Overview

Remote gambling operators already have the capability of identifying customers who may be harmed by gambling. Our evidence shows that the industry has not used this capability sufficiently to reduce harms. We are therefore consulting on stronger requirements that will help ensure remote gambling operators do more to identify consumers who may be harmed by gambling and to interact and take action sufficiently early and effectively to prevent harm.

Whilst some operators have continued to improve their processes on customer interaction, our casework and lived experience evidence shows that operators are not setting thresholds for action at appropriate levels, and that they are not taking the appropriate action or acting quickly enough when they do identify risk of potential harm.

Where we have identified failures to meet the requirements, we have taken compliance and enforcement action, and will continue to do so where we see failings. However, it is important that all operators learn the lessons of this casework, and that we raise standards to prevent the risks for consumers. It is in the interests of consumers to ensure that minimum standards are implemented consistently across the industry and does not rely on the Commission taking enforcement action against individual operators.

As part of these new requirements, we propose that online gambling operators must act on information they have about a consumer's vulnerability, and to introduce stronger requirements, including that operators must conduct defined affordability assessments at thresholds set by the Commission.

We are also calling for evidence on what the thresholds for these affordability assessments should be, the nature of these affordability assessments and how operators are required to protect consumers following an assessment.

We recognise that there is a need to strike the right balance between allowing consumer freedom and ensuring that there are protections in place to prevent gambling that would have an adverse financial and health impact on consumers. It is necessary for an operator to understand whether a customer is gambling beyond their means to understand the risk of such harms.

We also want to minimise the risk of unintended consequences. This consultation explores the risks we have identified and how we as the regulator, the industry and other key stakeholders, including the financial sector, could help to mitigate these risks.

For these reasons, we want an open and public dialogue on this consultation. We are particularly keen to hear directly from consumers during the consultation period on how

operators should be required to identify vulnerability, and gambling which is unaffordable, and the circumstances where it is appropriate to take action on behalf of a consumer.

We want to have an open discussion with all stakeholders, but particularly consumers. As part of our engagement with consumers during the consultation, we will release further material to support discussion and enable the broadest possible range of consumers to share their views.

Our aim as a result of this consultation is to better protect vulnerable consumers and to prevent gambling related harms.

Why are we consulting?

We are consulting because we have compelling evidence that the current thresholds for action determined by operators are too high, and are not effective at identifying and preventing harm to consumers, including people in some of the most vulnerable circumstances.

To do this we propose changes to the existing customer interaction requirements and guidance to take account of the evolving evidence base. The evidence base includes the experiences of people who have experienced harms from gambling, research and our compliance and enforcement casework.

Our casework has shown that when implementing the customer interaction requirements and associated guidance, many operators have set thresholds for interaction too high, including financial thresholds that are set at tens of thousands of pounds. They have made their responses to risk too slow and too complicated, and failed to act on intelligence they receive about potential vulnerability. On affordability, their actions have often failed to take account of available data on affordability levels.

We have also seen some good examples of actions taken by individual businesses, and increased engagement by operators to share best practice, to identify success measures and refine processes over time. The learnings from this work are also embedded in the proposals in this consultation.

We want to have an open and public debate on striking the right balance between consumer protections and allowing consumer freedom. This consultation and call for evidence will run for 10 weeks, until 12 January 2021.

During this period, we will continue to engage with consumers, people with lived experience and expertise in gambling and public health protections, the industry and other stakeholders, including the financial sector.

At the end of this period for the consultation and call for evidence, and depending on the evidence received, we plan to conduct a short supplementary consultation on the final draft requirements and guidance, including the thresholds that we may set for affordability assessments.

We consider that this two-stage process, which will allow for an overall consultation period of more than 14 weeks, is the most appropriate means of engaging with a wide audience and gathering information and evidence to inform the final requirements and guidance in order to ensure more is done to protect consumers at risk of harm.

Introduction

Thank you for taking part in this consultation and call for evidence. You can choose to respond to some or all of the questions. If you just want to comment on the overall approach, skip to the last question where general comments can be made.

1. What is your name?
2. What is your email address?
3. What is your organisation?
4. As part of this call for evidence, we may decide to publish your name and organisation on our website to indicate that you have responded to this consultation. We have asked you to indicate your consent to the Commission publishing your name and organisation to indicate you have responded to this call for evidence. Please select only one item
 - I CONSENT to the publication of my name and organisation to indicate I responded to this consultation
 - I DO NOT CONSENT to the publication of my name and organisation to indicate I responded to this consultation.

We ask that stakeholders respond to the consultation using the [online survey](#) on our website.

This PDF of the consultation is laid out slightly differently to the online version.

What has informed this consultation so far?

We have kickstarted our engagement with consumers and people with lived experience, industry, other regulators (such as the Financial Conduct Authority (FCA)) and stakeholders which has enabled us to build our understanding of the issues, and evidence of harm. We also gathered examples of improved practice, or successful practices in other sectors to address vulnerability and affordability in other contexts. However, we wish to continue this process during the consultation period and facilitate a proper open debate about the balance between protections and consumer freedom.

What is the current position?

Existing Customer interaction guidance for remote operators

Gambling operators are currently required to conduct customer interaction in a way that minimises the risk of consumers experiencing harm from gambling, to take specific actions to identify, interact with consumers and understand the impact of their actions. They must also take account of the Commission's customer interaction guidance for remote operators which sets out our expectations on how operators meet these requirements.

Our guidance is designed to be updated over time to take account of emerging evidence and good practice, input from people with lived experience, as well as knowledge and lessons learned from our compliance and enforcement casework.

However, we want to make our requirements stronger and clearer. We are proposing the introduction of new Social Responsibility Code requirements into LCCP (Licence Conditions and Codes of Practice), the Commission's rule book, and to replace the existing customer interaction guidance document for remote operators with a new customer interaction manual. This manual will bring together in one document the Customer Interaction LCCP requirements in relation to identifying harm, acting on harm, vulnerability and affordability, and revised implementation guidance.

The Commission's current guidance for remote operators was published in July 2019. On 12 May this year, additional guidance was published which addressed key risks to consumers, particularly in response to COVID-19 risks.

Our consultation proposals

Consultation section 1: Overall requirements and process

Licence conditions and codes of practice

The existing social responsibility code provision sets out the outcome which operators are required to deliver – interact-in a way which minimises the risk of customers experiencing harms associated with gambling.

It also specifies three processes which operators must deliver in order to meet this outcome – identifying customers who may be at risk of harm, interacting with those customers, and understanding the impact on the customer and of their overall approach.

The current guidance clarifies our expectations of operators in meeting the outcome and these specific requirements and provides detail on the evidence base and good practice.

This approach is designed to ensure that businesses have clarity on the steps they must take, with some flexibility on the detailed delivery approach, enabling them to adapt their processes to the needs of their customers and their business.

However, our evidence indicates that businesses are not meeting the outcomes effectively or consistently, because they are not being sufficiently curious about risk and, when identified, not acting sufficiently quickly or effectively to minimise harm.

We therefore propose:

- Retaining the existing LCCP requirement to deliver interaction in a way which minimises the risk of customers experiencing harms associated with gambling, as well as the three processes to deliver this outcome: identification, interact, evaluate.
- The addition to the LCCP requirement of specific measures that operators are required to deliver.
- The creation of a new remote customer interaction 'manual' which will reference the LCCP requirements and set out implementation guidance on how to meet each of these requirements. The existing remote customer interaction guidance would no longer apply.

Remote customer interaction – overall process

The implementation guidance within the manual will set out the minimum expectations and guidance for the three processes: **Identify, Interact, Evaluate**.

The requirement to conduct customer interaction is an existing LCCP requirement. We propose that this is retained, and we propose that the first additional requirement is that operators must implement effective processes which reflect the ongoing process of customer interaction. This means that operators must build processes which include the need to identify risk, take appropriate action and evaluate the impact of that action. This is not a one-off process but should be considered throughout the customers relationship with the operator.

Proposed LCCP Social Responsibility provision 1 - addition to SR Code 3.4.1

Customer interaction processes

Licensees must implement effective customer interaction processes which embed the three elements of customer interaction – identify, interact and evaluate - and which reflect that customer interaction is an ongoing process.

To aid operators in meeting the requirements and developing their customer interaction approach, we have included the overview of the process at Figure 1, which is shown below.

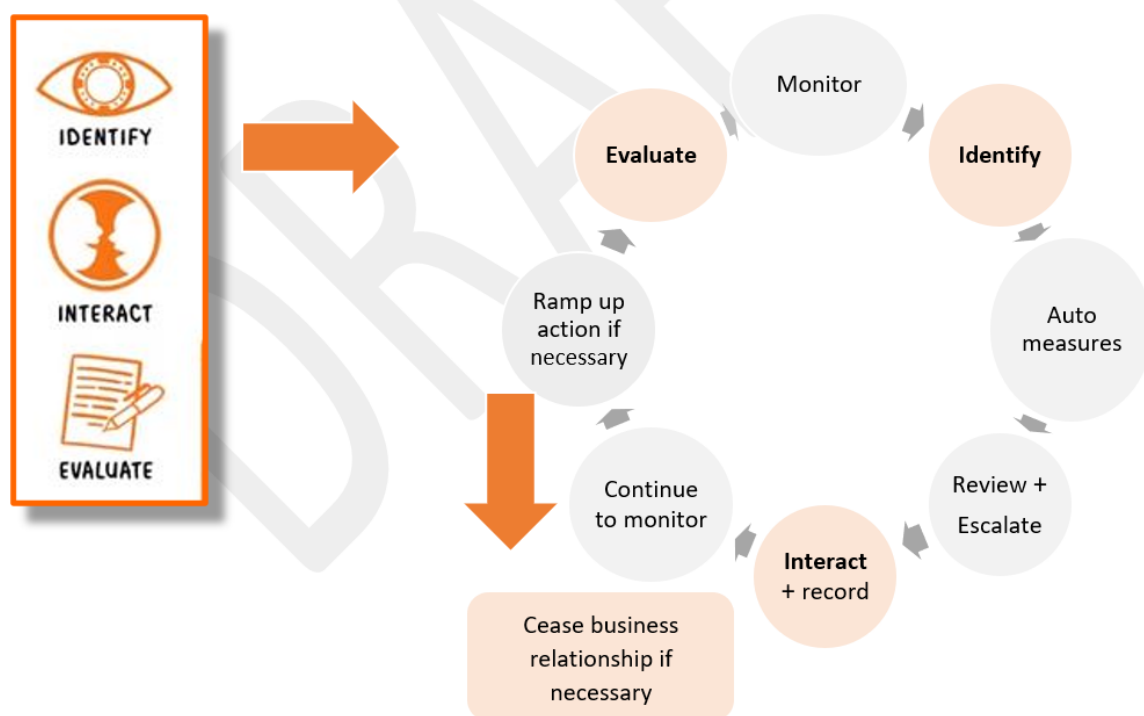


Figure 1: Overall process

Consultation questions: Identify

5 To what extent do you consider that the diagram above illustrates the ongoing and continued process which operators must deliver to identify harm to consumers and take action?

6 Do you have any comments on this overall process?

Consultation section 2: Identify

Identifying customers at risk of, or experiencing harm, is sometimes considered a difficult science. It is true that each consumer is different and operators cannot – in isolation - be sure that an indicator of harm for one consumer is relevant to their circumstances.

However, the reality is that it is simple to identify customers that *may* be at risk of harm, based on financial, time and behavioural indicators and applying knowledge about average consumers or knowledge about individual consumers. There is a wide and growing evidence base about patterns of spend and behaviour that are linked to risk. This knowledge can be used to consider the position of a consumer and apply proportionate customer interaction as a result.

The current customer interaction guidance sets out a full range of indicators that may be used, and the evidence which can be used by operators. We have seen some examples of good practice in the type of indicators that are applied.

To achieve greater consistency, we make proposals about specifying the activity to be monitored as indicators of risk of harm, and we seek to address the key risks we have identified in current operator practices:

- Processes that are too slow
- Processes that rely solely on manual action
- Lower levels of protection for new consumers
- Operators who contract with third parties failing to have sufficient processes for account monitoring
- Insufficient knowledge of customers to understand risk of harm

Our proposals - Identify

We propose that the requirement to identify harm is clarified. We aim to do this by specifying:

- the forms of activity which must be monitored,
- that the processes must flag up indicators of harm in a timely manner,
- that they must work to support automated responses in some instances.

Whilst a departure from a normal spending pattern for the individual consumer is part of the picture, operators have been too reliant on this as a key indicator, and this can overlook the risks for new consumers. We therefore propose that the requirement to monitor and apply indicators of harm applies from the point when an account is opened.

For some of the indicators of harm, we consider that the Commission must set requirements for the action which operators must take.

Therefore in the call for evidence we ask for information and evidence on the requirements for three specific indicators of harm and the action that must be taken when these indicators appear:

1. Affordability
2. Vulnerability
3. Time

Proposed LCCP Social Responsibility provision 2 - addition to SR Code 3.4.1

Indicators of harm

Licensees must have in place effective systems and processes to monitor customer activity to identify harm or potential harm, from the point when an account is opened.

The system must flag indicators of risk of harm in a timely manner for manual intervention and feed into automated protections as set by requirement [proposed SR provision 4].

Licensees must use a range of indicators relevant to their consumers. These must include:

- consumer spend
- patterns of spend
- time spent gambling
- gambling behaviour indicators
- customer-led contact
- use of gambling management tools, and
- account indicators.

Licensees are responsible for ensuring that they comply with the requirements. If the licensee works with third party business to business providers to offer facilities for gambling, the licensee is responsible for ensuring that processes are in place to monitor the activity on the account for each of the indicators above.

Patterns of spend

Binges
High amounts at set times eg payday
Escalation of gambling

Consumer spend

Amounts spent, taking into account affordability
Amounts spent compared to other consumers

Time indicators

Amount of time spent gambling
Time of day eg late night

Behaviour

Chasing losses
Choice of higher-risk products
In-play betting
Erratic patterns

Customer-led contact

Complaints
Indicators of vulnerability such as bereavement
Hints of not coping
Chat room comments

Use of gambling management tools

Refusal to use tools
Changing limits
Previous self-exclusion
Repeated use of time out

Account indicators

Failed deposits
Multiple payment methods
Types of payment

Our proposals – requirements for specific indicators

As well as the requirement to monitor the indicators of harm above, the Commission proposes to set specific requirements for three key indicators - affordability, vulnerability and time.

These issues are explored in the Call for Evidence on these themes. The draft proposed requirements below will be amended following the Call for Evidence.

Proposed LCCP Social Responsibility provision 3 - addition to SR Code 3.4.1

Requirements for specific indicators

Licensees must follow set requirements for specific indicators:

- a. Licensees must conduct affordability assessments at the level specified in this provision following the call for evidence. The definition of relevant affordability assessments will be provided - and different types of assessments may be set at different levels.
- b. Licensees must consider the factors that might make an individual more vulnerable to experiencing gambling harm and implement processes to take appropriate and timely action where indicators of vulnerability are identified. Licensees must take account of the Commission's definition of vulnerability.
- c. Licenses must implement actions specific to time spent gambling which is appropriate to the nature of the gambling provided.

Consultation questions: Requirements for specific indicators

7 To what extent do you agree with the proposal that remote operators should be required to conduct affordability assessments at thresholds set by the Commission? Please see the Call for Evidence for questions on the appropriate thresholds.

8 To what extent do you agree with the proposed requirement that remote operators must implement processes to take action where there are indicators of other forms of vulnerability (elevating this issue from guidance to requirements)? Please see the Call for Evidence for questions on experiences of vulnerability and what operators should do in response.

9 To what extent do you agree with the proposal that remote operators must implement actions in relation to time spent gambling which are linked to the nature of the gambling provided? Please see the Call for Evidence for questions on experiences of vulnerability and what operators should do in response.

Consultation section 3: Requirement to act

What is the issue?

As we have outlined above, operators have both been too slow to act and have acted at a level which does not reflect the risk of harm to consumers. The Commission is seeking to clarify our requirements and expectations to address these issues and ensure that action is taken in the interests of consumers more quickly, more decisively, and not involving unnecessary tiers of decision-making.

Our proposals – requirement to act

We propose that operators are required to take action in a timely manner (which in some cases may mean through automated, real-time measures), that this action reflects the seriousness of the indicators of harm, including refusing service and ending the business relationship where necessary.

This would elevate the current guidance to a firm requirement, and give greater clarity on the Commission's expectations about the different types of actions under a customer interaction, and the speed at which we expect these to be implemented. Spotting signs of harm and taking early action is a preventative measure, designed to enable a customer to gamble safely.

Proposed LCCP Social Responsibility provision 4 - addition to SR Code 3.4.1 Requirement to act

Licensees must interact and take appropriate action in a timely manner when they have identified the risk of harm.

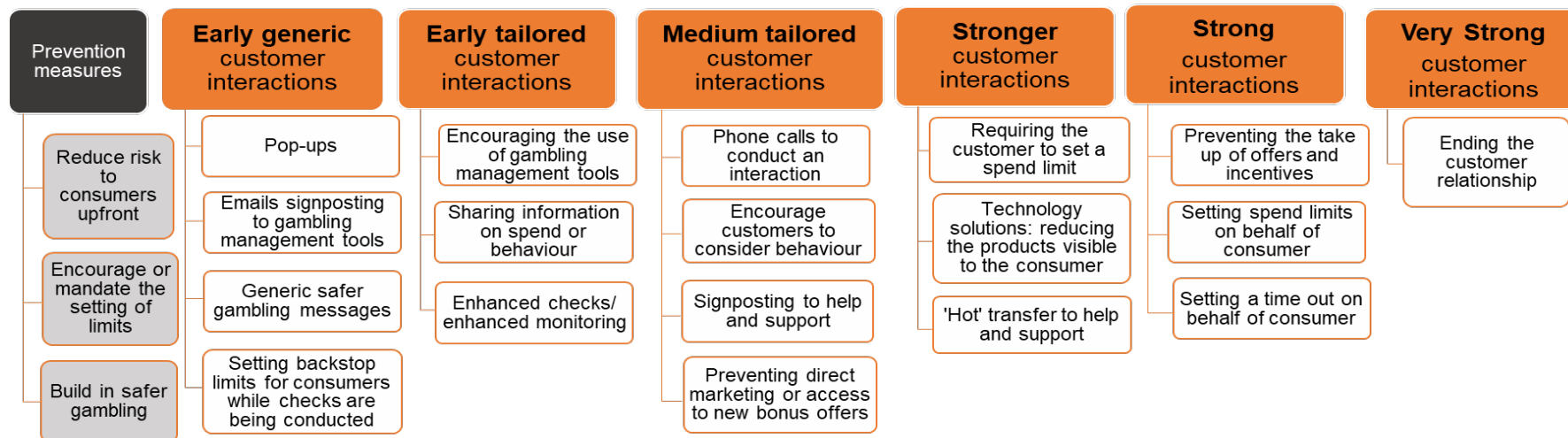
Licensees must tailor the type of action they take based on the number and level of indicators of harm exhibited. Importantly, this may mean taking strong or stronger action straight away, rather than increasing action gradually. This will include giving consideration to refusing service or ending the business relationship where necessary.

Licensees must ensure that strong indicators of harm are acted on in a timely manner by implementing automated solutions where necessary.

Consultation questions: Requirement to act

10 To what extent do you agree with the proposal to require remote operators to interact in a timely manner, to interact at a level appropriate to the indicator, and to require automated solutions where necessary?

11 Do you have any comments on the proposed requirement SR provision 4 to require remote operators to interact in a timely manner, to interact at a level appropriate to the indicator, and to require automated solutions where necessary?



Consultation questions: Categories of customer interaction

12 Do you have any comments on the proposed categorisation of customer interactions to help ensure that operator actions reflect the seriousness of the indicators of harm?

Consultation section 4: Evaluate

Following on from identification and interaction with consumers it is crucial that operators understand the impact of this interaction and continually strive to improve their approach. Without this process operators cannot be confident that they are truly minimising harms as a result of their actions. To-date the quality of the processes introduced by operators has been very mixed.

Our proposals - evaluate

This consultation proposes clearer requirements on operators and guidance on how to achieve effective evaluation at both an individual level for a consumer, and for an operator's overall processes.

Operators must follow up interactions with monitoring of changes in play data including spend, deposit patterns and more nuanced play patterns (such as chasing losses, increasing spin speeds etc.) Operators should also trial different approaches to customer interaction to understand what works best, and what works best for different sections of their customer base.

Whilst tracking of play data is the minimum expected standard for evaluation of customer interaction we intend our implementation guidance to state that good practice is that operators follow-up a sample of consumers on an on-going basis to understand changes in problem gambling status based on problem gambling screens¹. Where possible operators should also gain more qualitative feedback on the quality and effectiveness of their interactions to aid continuous development.

The aims of the evaluation process are two-fold:

- To understand whether the interaction has had the desired effect of minimising harms for an individual consumer, or whether they require further support
- To understand the effectiveness of the process and whether the best methods of identification and interaction are being employed.

Proposed LCCP Social Responsibility provision 5 – addition to SR Code 3.4.1

Evaluate

Licensees must implement processes to understand the impact of individual interactions and actions on a consumer's behaviour, the continued risk of harm and therefore whether/ what further action is needed.

Licensees must take all reasonable steps to evaluate the effectiveness of their overall approach – for example by trialling and measuring impact. Licensees must take account of problem gambling rates for the gambling activity to check whether the number of customer interactions is at the least in line with this level.

¹ More detail on widely used screens (including those used by the Commission) is available here: <https://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Problem-gambling-screens.aspx>

Consultation questions: Evaluate

13 To what extent do you agree with the proposal to strengthen the existing requirement by specifying that remote operators must implement processes to understand the impact of their actions on individual consumers?

14 To what extent do you agree that operators must take all reasonable steps to assess overall effectiveness of their measures?

15 Do you have any comments on the proposed requirements to evaluate effectiveness?

Call for Evidence

To support this consultation, we call for evidence on five areas:

A. Affordability thresholds and action

Where should thresholds be set for affordability assessments to get the right balance between consumer freedom and privacy, and consumer protection? We have drawn together some key evidence and would welcome contributions and views.

B. Protecting consumers in a vulnerable situation

How should operators be required and given guidance to minimise the risk of harm for consumers in a vulnerable situation? We have drawn on work in other sectors, and would welcome views on the relevance of these measures in gambling.

C. Time spent gambling thresholds and action

Whilst the financial impact of gambling is significant, time spent gambling can be an indicator of harm. Our 12 May additional guidance stated that remote operators should consider forms of interaction after 1 hour of play. How can we learn from what operators have done and tailor action for different products?

D. Preventing marketing and the take-up of bonus offers

In what circumstances should the Commission require operators to take this form of customer interaction? This would be over and above the requirement for operators to identify their own thresholds for taking these steps.

E. Impact and unintended consequences

How can the Commission measure the impact of the changes, and what can be done to minimise the risk of unintended consequences?

If following consultation, the Commission implements the proposed requirements set out above, we will use evidence from respondents on these issues to prepare the final draft requirements and guidance for remote operators.

The Call for Evidence will run for 10 weeks alongside the consultation, and will close on 12 January 2021.

Call for Evidence

Section A: Identify risk of harm due to affordability

Our proposals

We have proposed in the consultation above that the Commission requires remote operators to conduct specified forms of affordability assessments at thresholds that would be set by the Commission. This section of the Call for Evidence seeks views and evidence on the appropriate thresholds, the form of affordability assessment that should be required, and how to ensure that operators take the appropriate action following an affordability assessment.

What is the issue?

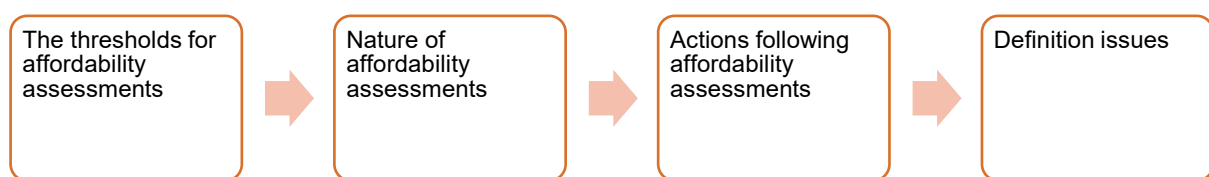
Individuals spending more than they can afford to lose is one of the harms most commonly associated with a gambling disorder, and the harms can be significant even at spending levels which can be seen as low. The level of spend on gambling at which harms begin to occur will depend on the consumer's discretionary income². If a consumer can only fund their gambling by using funds that are needed to support necessities, this is unsustainable.

This call for evidence explores how to strengthen the requirements to minimise this risk, and how to balance consumer freedom and privacy at the same time.

During this consultation, we want to discuss with consumers and wider stakeholders the appropriate thresholds that should be applied for an operator to be required to conduct affordability assessments, the nature of affordability assessments, and the action that must be taken to protect consumers following an assessment. We recognise that some of these options would potentially restrict consumer freedom in some cases, and that there is a need to ensure that unintended consequences are minimised.

The potential requirements in each of these areas interact with each other.

Figure 4:



Evidence of harm

There is evidence to indicate that there is a large-scale issue with remote gamblers betting more than they can afford to lose and experiencing issues with their gambling. The 2018 Health Survey for England (HSE), a large-scale face-to-face survey which employs both the PGSI and DSM-IV problem gambling screening instruments, found that of those who had *gambled online* (on slots, casino or bingo games) in the past year 21% had bet more than they can afford at least sometimes. The same survey found that nearly a quarter of those who had gambled on slots, casino or bingo games online in the past year were classified as either moderate risk or problem gamblers – and therefore likely to already be experiencing

² Discretionary income is income left available to an individual after essentials such as taxes, accommodation, utilities and food have been paid for.

negative consequences as a result of gambling. Whilst these figures were lower for those who had *bet online with a bookmaker* in the past year they were still at a concerning level – 8% had bet more than they could afford at least sometimes and around one-in-ten were classified as moderate risk or problem gamblers. These figures were consistent with the combined Health Survey data for England and Scotland in 2016.

In addition, HSE 2018, found that 71% of those classified as problem gamblers or moderate risk on at least one screen³ said they had bet more than they can afford at least sometimes. This figure fell to 1% of past-year gamblers who were not problem or moderate risk gamblers. This indicates that gambling within one's means is a reasonable way of discriminating between those who are problem or moderate risk gamblers and those that are not.

Evidence from other organisations provides further emphasis of affordability as an area of concern. For example, GamCare has indicated that 70% of callers to the National Gambling Helpline, operated by GamCare, mention some level of gambling debt or financial hardship.

Similarly, the Money and Mental Health Policy Institute found that one in four (24%) of respondents to a survey of the MMHPI Research Community of people with lived experience of mental health problems experienced financial problems as a result of gambling online.

This evidence highlights the importance of affordability as a prominent consideration in preventing harms.

The Commission's compliance and enforcement data

Our compliance and enforcement teams have reviewed numerous cases where individuals have demonstrated gambling-related harms and yet have been able to continue to gamble without effective action being taken. Some of these individuals have funded their gambling activity through crime but the majority of cases were customers relying on unsustainable funds such as loans; credit; inheritance; personal injury or redundancy payments.

Common to all these cases has been the ineffective control frameworks used by the operators to identify and manage the risk. Particular issues identified have been that intervention hasn't happened in a timely way, many customers were flagged as needing an interaction, but this didn't happen until the next day, or later, after the customer had exhausted their funds and that the threshold levels were set at a level that didn't take account of the likely affordability of the consumer.

We updated our customer interaction guidance last year to reiterate that operators should consider affordability when setting threshold levels for interaction by considering population level data about discretionary income.

Our enforcement reports have also indicated to operators that they should take into account population level discretionary income data when setting thresholds. We note that there has been a reaction to that with operators reducing their threshold levels for interaction.

However, action is not consistent across operators and we still have concerns that threshold levels are set too high. For example, some operators have revised their daily, weekly, and

³ The Health Survey England employs both the PGSI and DSM-IV problem gambling screening instruments. Details of both screens can be accessed here: <https://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Problem-gambling-screens.aspx>

monthly deposit thresholds down to threshold levels still in the £10k's. When population level income data is taken into account, many operators consider that the entirety of an individual's discretionary income (or in some cases disposable income) should be available for gambling. Discretionary income is required to cover all expenditure except: tax; housing costs; food and household bills.

As a snapshot: in September 2019, our Enforcement team had 40 separate live operating licence cases. Safer Gambling breaches features as the primary issue in 26 of them. Breaches of the revised customer interaction LCCP code 3.4.1 from October 2019 has emerged on at least 15 occasions and numbers are expected to continue to grow.

Case Studies from 2020 – Clearly unaffordable gambling

Operator A

The customer’s first deposit was £10K which triggered the operator to ask the customer to complete a safer gambling self-assessment. Eleven days later, the customer deposited another £40K within an hour and a further £10K the following day. Open source checks resulted in the operator estimating the customer’s annual salary to be £416,743 per year. However, Gambling Commission compliance staff discovered the searches showed the highest possible salary for the customer was £122,683. The customer’s account was reviewed by the operator several months after registration and suspended because it was deemed there was insufficient information to support the level of spend. The customer had lost half their known salary in two weeks, most of this within one hour.

Operator B

A customer lost £34,849 in four months, of which approximately £33k was lost in the last nine weeks of play. Although the customer hit various bet frequency triggers and deposit triggers and received pop-ups, no evaluation was carried out to see if these had been effective. Human interaction was not attempted until four months had passed, and the customer did not respond. Shortly after, the customer requested self-exclusion for five years, suggesting they were likely to be experiencing gambling related harm. The operator held no information on the customer to support this level of spend.

Operator C

A customer lost approximately £33k in three months without any source of income being identified or any affordability assessment taking place. This is despite the customer hitting several triggers for potential gambling harm and indicating during a phone call that they were spending more due to their current situation. Compliance staff examined the information held by the operator and this suggested the customer had an income of only £8,500 a year. After approximately ten weeks, the customer admitted during a telephone call to losing too much money and was only then proactively barred by the operator.

Operator D

A customer lost £54K within a month of signup despite the operator not having established affordability for the customer. Shortly after joining the customer’s account was suspended due to Safer Gambling concerns. When a successful call was made, the customer said they had *‘had a shocker over the weekend’* but were happy to lose £20K a month. The customer said they would be happy for the operator to set a deposit limit for them, but this was not done. During a follow up call two days later, the customer said they had been spending more than usual due to having *‘nothing to do for eight weeks’* due to the lockdown. They said they had then had a spree because sports betting had started up again. A £20K deposit limit was put on the customer’s account and the account was reactivated, despite the operator still not having conducted an affordability assessment. Two days after the account had been reactivated, the customer removed the deposit limit and continued to deposit funds, losing approximately £25K in two weeks at the time of the assessment. The operator had still not established affordability for the customer.

Operator E

A customer was not identified as a potential safer gambling concern until they had lost £11K in 6 weeks. This interaction appeared to have no impact as the customer went on to lose a further £22k within a month. The customer was able to lose over £33K in around ten weeks without any affordability assessment taking place.

Operator F

A customer lost £24,800 within three days. The operator had not carried out any affordability assessment for the customer.

Call for Evidence questions: harms

16 What additional evidence should the Commission consider in relation to the harms associated with gambling that is not affordable?

Evidence on levels of discretionary and disposable income

Discretionary income

From our evidence so far, we consider that the most relevant way of assessing how much consumers may have to spend before beginning to experience harms as a result of their gambling is through discretionary income. Discretionary income is how much an individual has left at the end of the month after accounting for essentials such as taxes, bills, food and accommodation. Discretionary income is therefore available for things like day-to-day travel, holidays, clothes and leisure (including gambling) without impacting on core financial responsibilities. It would not be expected that anyone could spend their entire discretionary income on gambling without experiencing harms.

We have provided data below on levels of discretionary income which is taken from YouGov survey data. We consider the YouGov figures to be an appropriate current source of data on discretionary income levels on the basis that:

- The sample is large and robust – 128,000 people who are nationally representative of the GB population
- The data is updated regularly - the data in the table below is recent, and in the future we will regularly have data available to track any changes in the figures

The data below is based on population level data and we wanted to be sure that this is reflective of remote gamblers. As such we have used the combined Health Survey data for 2016 (publicly available on the UK Data Archive) to test differences in level of income between the population and those that gambled online. This found that there were no significant differences in income level between these two groups – in other words, people who gamble have broadly the same discretionary income as the general population.

Figure 4: Discretionary income per calendar month, based on age

Monthly discretionary income	All Ages	18-24 years	25-34 years	35-44 years	45-54 years	55+ years
Nothing	9%	10%	7%	9%	11%	9%
Less than £125	25%	31%	20%	25%	26%	25%
£125 to £249	20%	21%	20%	19%	19%	21%
£250 to £499	19%	15%	23%	20%	19%	19%
£500 to £1,000	16%	15%	18%	16%	15%	15%

£1,000 to £2,000	9%	7%	10%	9%	8%	9%
£2,000+	2%	1%	1%	2%	3%	3%
Source: YouGov Profiles, January 2020						

Disposable income

Another source of data is provided by the ONS in relation to disposable household income, combined with information on living costs and spending.

Whilst this data forms the most robust estimate of disposable household income it does not directly tie income to expenditure – and therefore does not indicate how much an individual has available for activities such as leisure, haircuts, holidays etc. The ONS data on disposable income can be accessed at the link [here](#).

The ONS also collects data on household expenditure from the Living Costs and Food Survey (LCF), which is a sample survey of private households, designed to provide information on disposable income, household expenditure patterns and food consumption. It is estimated that in the financial year ending 2019, private households spent approximately £585.60 per week, which includes but is not limited to:

- Transport (£80.20 average per week)
- Housing, fuel and power (average £79.40 per week)
- Communications (average £21.30 per week)
- Other expenditure items (average £77.20 per week)
- Food and non-alcoholic drinks (average £61.90 per week)
- Recreation and culture (average £76.90 per week)

They have also published some tables where we can see Household expenditure by disposable income decile group – this is useful to get an indication of expenditure based on income. For example, for those between 30 and 50, the amount spent on recreation and culture per week ranges dependent on income from £37.80 for the lowest twenty percent to £119.10 for the highest twenty percent.

These figures above cannot be used in isolation as they do not take into account expenditure or other financial commitments. However, comparing the figures from the Living Costs and Foods Survey to discretionary income figures from the You Gov survey is helpful because it provides additional information about what may be considered typical spending.

A key point from each of these datasets is that any definition of disposable or discretionary income reflects that this income is required for a wide range of activities – travel, sport, leisure, clothing, haircuts etc. – and gambling is just one part of this spend.

Based on the evidence available so far, we have assessed the number of customers that would be impacted by setting thresholds related to discretionary income, compared to gambling spend data. This showed that:

- At a headline level, those who gamble online spend on average £57 / month – this is based on GGY for remote gambling and an online past four-week participation rate of 16.5% from the Commission’s telephone survey.
- Taking the example threshold of £100 per month to show the number of consumers who may be captured by a threshold which was relatively low: operator data

analysed by Forrest & McHale⁴ showed that 17% of online slots players and 9% of non-slots players finished with a monthly loss over £100. The data is from January 2017 and does not necessarily equate to an average month of consumer play.

- Early limited trial data from the industry indicates that within a given month, approximately 15% of active customers lose more than £150, and 2% lose more than £1,000.

Affordability – setting parameters to this call for evidence

Whilst the Commission will consider all the evidence in response to this consultation and call for evidence, we are clear that it is not now nor will it be permitted in the future for gambling operators to set thresholds for action at levels that are unrealistic, of the level which has been tackled in our enforcement activity. For example, cases where thresholds are set at tens of thousands are not appropriately taking into account the evidence base on affordability, and may not be addressing the Know Your Customer (KYC) and Anti-Money Laundering (AML) duties in any case.

Therefore, it may be worth considering that the Commission does not currently consider that a threshold in excess of £2000 would be realistic or appropriate, and indeed the evidence base may point to a threshold considerably below this. This is linked back to the evidence about discretionary income which shows that 98% of population have less discretionary income than this threshold. As we have noted, it would not be expected that anyone could spend their entire discretionary income on gambling without experiencing harms.

In addition, many remote operators are already required as a result of Anti-Money Laundering to apply Consumer Due Diligence (CDD) measures in relation to transactions that amounts to €2,000 or more. A risk-based approach is also applied in which many operators apply such measures at lower thresholds.

Equally, the Commission's evidence to date would not indicate that it would be proportionate to require customers to be subjected to affordability assessments for small, infrequent gambling at a level which would be affordable to most of the population, or where gambling at those levels is extremely unlikely to cause financial hardship. This means that we are not - based on the evidence so far - considering a 'licence to gamble' which would require affordability checks to be conducted as a solely pre-emptive action for all consumers. This may indicate that the lowest possible threshold is likely to be at least £100 loss per calendar month.

Call for Evidence questions: thresholds for affordability assessments

17 What additional information should the Commission consider in setting thresholds for affordability assessments?^a information

Nature of affordability assessments

⁴ The data is from January 2017 and does not necessarily equate to an average month of consumer play. <https://about.gambleaware.org/media/1697/analysis-of-play-among-british-online-gamblers-on-slots-and-other-casino-14318.pdf>

To support harm minimisation, we consider it important that operators understand whether a customer is spending beyond their means. We would not necessarily consider it proportionate that an affordability assessment is undertaken on all customers but operators should certainly be gathering data throughout the life of the customer relationship, starting from the point of registration which should be able to assist with a consideration of whether a customer is gambling within their means. We are proposing that an affordability assessment is undertaken if certain loss thresholds are reached. Operators would then be expected to take appropriate action based on the result of the assessment, such as setting tailored deposit limits (sometimes described as a hard stop or a handbrake).

We wish to obtain views through this call for evidence on what operators should do, as a minimum, to satisfy themselves that their customers are not gambling beyond their means. We are seeking views on this because we think it will be necessary to specify what operators are required to do to ensure that the assessment provides a good insight of a customer's affordability. We anticipate that the majority of affordability assessments will be supported by the use of third party providers, to validate or supplement information collected from customers directly.

We understand that a number of providers offer affordability/insight services to operators based on general postcode level data. Providers draw from open source data around variables such as average property price to provide a suggested household affordability level. This can then be subject to refinement using modelling based on open source data sets such as ONS figures around average salary levels. Checks are also made for adverse information such as CCJs which are available within the public domain. A combination of these open sources can be offered as an indication of an individual's financial position.

Given that discretionary income levels can vary significantly within local areas we consider that in isolation these are unlikely to provide sufficient understanding of a customer's affordability, but we would welcome views.

We also understand that some suppliers/credit reference agencies provide a range of data products which provide a more personalised financial check into the individual's financial position, including for example discretionary income indicators that take account of mortgage and credit commitments and essential expenditure. These kinds of checks do not in any way affect the customer's credit score. During this call for evidence we will continue to engage with suppliers to understand the full range of information that they can make available to operators. We would welcome views on the effectiveness of these services and we would want to be clear that it is still likely that operators will need to collect information directly from customers. Although information on savings, inheritance, winnings, or one-off payments can be considered relevant for overall affordability, this should be assessed as part of ongoing sustainable leisure spend.

An affordability assessment can only provide an assessment at one point in time. As a consumer's financial position can change we would welcome views on how long an operator should rely on a previously completed affordability assessment before a further assessment is undertaken, or in which circumstances a review by exception would be appropriate.

It should be recognised that these proposals will remove some freedoms from some customers – for example, at certain threshold levels it may be appropriate to apply a handbrake or hard stop to prevent gambling beyond that point until an operator has established that a customer has the means to gamble beyond those levels.

Actions following an affordability assessment

The aim of undertaking an affordability assessment is to identify whether that customer is gambling beyond their means and if so to act to reduce the harm associated with doing so. If the gambling is identified as unaffordable we consider that operators must act in a timely way to minimise harm by, for example, setting appropriate deposit limits.

Consumer inconvenience

We understand that consumers may feel inconvenienced or uncomfortable by being required to provide data either as a stand-alone assessment of affordability or as a supplement to data provided via credit reference agencies. We would therefore particularly welcome views from consumers on the thresholds at which they would understand that wider consumer protection considerations outweigh the inconvenience or intrusion of providing data. We would also welcome views on the types of data that consumers consider should **not** be required, in order to preserve consumer privacy.

Call for Evidence questions: Nature of affordability assessments

18 What information should operators obtain, as a minimum, to satisfy themselves that their customers are not gambling beyond their means?

19 How would consumers react to a handbrake or hard stop requirement, where the operator is required to prevent further gambling unless an affordability assessment is undertaken and shows that the level of gambling is affordable?

20 How long should an affordability assessment remain valid before a periodic re-assessment, and what circumstances should prompt a review by exception?

Affordability – Data protection (GDPR)

When considering affordability assessments, an operator will be considering data protection issues.

Article 22 of the GDPR states that:

1. *The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.*
2. *Paragraph 1 shall not apply if the decision:*

...
b. is authorised by Union or Member State law to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests...

The precise scope of Article 22 is an untested area, and we would like to obtain views, particularly from operators, on whether they consider an automated limit which triggers a gambling stop, fall within Article 22 and, specifically, whether it 'produces legal effects concerning him or her or similarly significantly affects him or her.'

The Commission would not consider triggers which lead to a temporary stop in gambling as a decision which produces legal effects, as the customer's contractual relationship is not ended and the decision can be addressed through further discussion between the operator

and the customer. We would also consider a pause on gambling with one operator is unlikely to be considered a 'significant effect', akin to the denying of credit, refusing employment or access to health services.

If Article 22(1) is engaged, Article 22(2)(b) permits such processing on the basis of national law which safeguards the rights of the data subject's rights/interests. Therefore, if the view is Article 22(1) is engaged, it would be open to the Commission to impose a requirement on operators to process in an automated manner (with built in safeguards). This exemption would therefore likely be applicable if the requirement for automation was imposed by the Commission, but not if the requirement was more generalised and left it up to operators as to how this could be achieved.

The current proposed requirement for automated solutions which we are consulting on is that *'Licensees must ensure that strong indicators of harm are acted on in a timely manner by implementing automated solutions where necessary.'*

Call for Evidence questions: Data Protection

21 In general, we do not consider Article 22 to be engaged by automated solutions typically implemented by operators. We would however like to obtain views from operators on whether the current proposed requirement for automated solutions would satisfy the Article 22(2)(b) exemption to allow for automated processing, and if so, what sort of safeguards for the consumer do you think would be achievable?

Call for Evidence

Section B: Identify risk of harm due to vulnerability

What is the issue?

When consumers are in a vulnerable situation, they may be significantly less able to understand the risks of gambling and the terms and conditions; and they may be at higher risk of experiencing negative outcomes from gambling.

We expect the fair treatment of vulnerable consumers to be taken very seriously by operators and we expect them to take action when they are aware of a consumer in a vulnerable situation. Our current customer interaction guidance helps operators to understand the vulnerable situations that may be relevant for their consumers and how to use existing information to identify and take action.

However, we have seen consistent evidence that operators are not taking account of information they receive as part of customer service, information about source of funds or in dealing with complaints. This means they are missing the opportunity to take account of vulnerability.

In the consultation above, we have proposed that there is a new requirement (elevated from guidance) to take action when there are indicators of vulnerability. This section of our call for evidence explores the evidence base, and seeks views on good practice for operators to identify and take action to support consumers in a vulnerable situation.

Evidence of harm

The challenges of those in vulnerable situations to interact with a range of financial, digital or complex consumer products is well documented. The Financial Lives 2020 survey conducted by the FCA has found that just under half (46%) of UK adults, aged 18 and over (24.1 million people), display one or more characteristics of vulnerability. As that report points out, the risk increases as more than one vulnerability characteristic is present and where those needs are not being met. The Money and Mental Health Policy Institute (MMHPI) found that people with mental health problems are three and a half times as likely to be in problem debt.

When looking at gambling specifically, a recent report by the Money and Mental Health Policy Institute showed findings from a survey of their research community of people with lived experience of mental health problems⁵, which identified that a quarter (24%) of respondents have experienced financial problems as a result of gambling online, and one in three (32%) have bet more than they could afford to lose.

⁵ Money and Mental Health Survey. Bases for these questions respectively: 134 and 135 people with lived experience of mental health problems who have gambled online.

The Commission's compliance and enforcement data

Compliance and enforcement – example case involving a consumer in a vulnerable situation

A gambling consumer references that they are struggling with their gambling and that they have been recently bereaved. The operator does not act on this information, and instead continues to offer bonuses.

A gambling consumer is asked to provide information on source of funds to support an affordability assessment and provides information about a medical claim. The operator does not consider whether the medical issues mean that the customer is in a vulnerable situation.

What is a vulnerable consumer?

In our corporate strategy, the Commission has defined a customer in a vulnerable situation as *somebody who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care.*

There are many reasons a person may be in a vulnerable situation and changes to an individual customer's circumstances may mean that a person becomes more or less vulnerable to experiencing gambling harms. A vulnerable situation can be permanent, temporary or intermittent, and may be related to health, capability, resilience, or the impact of a life event.

Those circumstances could include bereavement, loss of income or other factors.

A factor may exist but not be a representation of vulnerability in any given situation. For example, a customer may have a disability or impairment that does not affect decision-making in gambling and where it would be inappropriate to treat a customer differently. Research cited in the PSA vulnerability report suggests 50% of people with a disability do not consider themselves to be vulnerable.

Vulnerabilities differ and the appropriate response will depend on the circumstances - but even where there are no other markers of harm than the identification of potential vulnerability, there will be times when action is important.

In the context of customer interaction, many of the indicators of vulnerability associated with problem gambling, or gambling addiction should be identified through other indicators of harm, such as affordability or chasing losses. Therefore this section is most likely to be useful to support the identification of vulnerable situations which result from changes in circumstance (such as job loss) or vulnerabilities which risk specific harm (such as mental health problems or significant life events).

Our proposals - vulnerability

We recognise that operators may not always have information available to them to identify vulnerability. However, to meet our expectation that operators ask appropriate questions, and act on all the information they have available, we are proposing in the consultation above that there are new requirements on operators.

This would require operators to consider the factors that might make their consumers more vulnerable to experiencing gambling harm. Our guidance will assist them in these factors. It

would also require operators to implement processes to take appropriate and timely action when indicators of vulnerability that are identified.

Operators can have a significant amount of interaction with customers through:

- Customer processes such as verification of age and identity, assessment of affordability and source of funds for anti-money laundering purposes.
- Customer services
- Customer chat rooms and forums
- Resolving complaints

In our current customer interaction guidance, we set out information about vulnerability and some ways in which operators can address these risks. However, in the revised proposed approach, we make a clearer distinction on what operators are required to do and guidance to support those requirements.

A key part of the new guidance will be to demonstrate the actions that operators can take when they identify possible vulnerability. In our implementation guidance, we will set out a table of the example scenarios, how an operator may become aware and the actions they should take as a result.

Category of vulnerability	Explanation	Example indicator for gambling operators	Example actions available to the operator
Health:	If an individual is experiencing poor physical or mental health, physical or cognitive impairment, suffering side effects from a brain injury, taking medication which may increase risk-taking, or has an addiction.	A customer mentions their ill-health during a conversation with customer service - the original contact may have been about problems with gambling or more routine conversations.	<p>Review account for other indicators of harm, and continue to monitor closely.</p> <p>Ensure appropriate gambling management tools are selected by the customer or on behalf of the customer.</p> <p>Cease business relationship, particularly in the case of brain injury or medication which increases risk-taking behaviour.</p>
Access and capability:	If an individual has difficulty accessing information because of poor literacy or numeracy skills, knowledge, dyslexia; or if an individual has a higher than standard level of trust or high appetite for risk.	A customer gets in touch to complain about a game not meeting their expectations and the communication indicates lower than expected knowledge or understanding.	<p>Ensure easily digestible information is made available for all customers.</p> <p>Review account for other indicators of harm, and continue to monitor closely.</p>
Life events:	If the individual is experiencing financial difficulties, is homeless, is suffering from domestic or financial abuse, has caring responsibilities, experiences a life change or sudden change in circumstances such as divorce or bereavement, job loss.	A customer discusses a significant recent bereavement and the impact this is having on their gambling on customer chat functions.	<p>Review account for other indicators of harm, and continue to monitor closely.</p> <p>Ensure appropriate gambling management tools are selected by the customer or on behalf of the customer.</p> <p>Cease business relationship, particularly if you have concerns about the levels of time or money spent by the customer after mitigating measures, or immediately where significant concerns.</p>

Market related:	If an individual is engaged in an activity which is highly complex; that they have a lack of knowledge and/or experience of the market. For example, a customer chooses a highly complex betting product in a niche market.	A new customer chooses high risk or complex products in a non-standard pattern - it may be unusual for consumers to choose highly complex betting products when they appear to be new or have little knowledge.	Set limits on complex products for new customers. Ensure customers are provided with appropriate information before playing such products. Review account for other indicators of harm, and continue to monitor closely.
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This call for evidence allows all stakeholders to contribute examples of good and bad practice for identifying and protecting consumers in a vulnerable situation in a gambling context. For example, some financial sector organisations have found it useful to include a set of optional questions for consumers when registering for a service for the first time, which could include questions on mental health conditions or on vulnerability. Follow-up questions at customer service touchpoints can include ‘has anything in your circumstances changed?’ or ‘do you consider yourself to be in a vulnerable position?’. The Commission is keen to support trials of such activity - these forms of optional self-disclosure could be helpful preventive measures to augment a reactive approach.

Ongoing work to protect vulnerable consumers

Customer interaction is a key means of identifying and protecting against vulnerable situations. However, there is a wide range of other work which the Commission conducts in this space. We also conduct and review relevant research, review other regulatory approaches, and build in vulnerability to our wider work.

In terms of our action to protect vulnerable consumers, this touches on each stage of the customer journey - before a customer may gamble, as they start gambling and to understand the risks, support they may be offered to or subject to manage or cease gambling. This ranges from working with advertising regulators and technology providers to reduce the visibility and impact of advertising on vulnerable consumers to requiring provision of effective gambling management tools and the means to self-exclude from gambling.

The Commission is separately working to publish a statement on how it approaches vulnerability as part of its wider work. A statement of our approach to vulnerability will set out the principles and key areas of our work, and this detailed work will continue to evolve over time, as we continue to build the evidence base about consumers and situations that may make them particularly vulnerable when gambling.

Call for Evidence questions: Consumers in vulnerable situations

22 What forms of vulnerable situations are particularly relevant for consumers who gamble?

23 Are there further examples of actions operators should take to identify and prevent harm for consumers in a vulnerable situation?

24 Do you have any further information that would support the Commission’s wider work on vulnerability and a future statement of our approach to vulnerability?

Call for Evidence Section C: Time

What is the issue?

In the consultation above, we propose that operators are required to monitor a series of indicators of harm, including time spent gambling and set their own thresholds for action.

This call for evidence seeks views on whether specific requirements and/or guidance should be introduced in relation to gambling sessions of a specific length on various online gambling products.

In May, the Commission provided additional formal guidance for remote operators which stated that operators should carry out a customer interaction following an hour of play in a single session. This was based on research and assessment that the likelihood of harms increased in session lengths longer than an hour, linked to the amount that was spent in sessions above that length and the possible impact of significant periods of gambling which could be considered intense.

In the medium-long term, significant and ongoing research on consumer behaviours (including research on Patterns of Play, commissioned by GambleAware) will help inform how harm varies at different session lengths and for different products. The findings of this research may be used to inform future versions of customer interaction guidance.

In the meantime, as part of this call for evidence, we seek views from consumers and from the industry on how impactful interactions after one hour have been to reduce harm, and whether such interactions picked up risk of harm that would otherwise be missed due to financial or behavioural indicators of harm.

We would welcome consumer views on the disruption from interaction after a period of one hour.

We also recognise that gambling session lengths of one hour will be more common for some types of gambling than others - poker games for example, or bingo sessions - and in many cases, this time spent gambling will not in and of itself be harmful.

Since May, the Commission has also conducted a consultation on safer game design for online slots. This consultation addressed concerns about some game features that increased the intensity of gambling and made it harder to end sessions.

Call for Evidence questions: Time

25 To what extent do you consider that action by operators should be required after a certain time spent gambling? This would be over and above the proposed requirement that operators set their own time thresholds.

26 If so, what products and session lengths do you consider should trigger a form of customer interaction?

Call for Evidence

Section D: Preventing bonus offers

What is the issue?

The proposed categories of customer interaction set out in the consultation above include two specific measures to stop marketing of bonus offers to customers displaying indicators of harm, and to prevent such customers taking them up. We are seeking views through this call for evidence on whether we should make it a requirement to take these actions when certain markers of harm have been identified.

Bonus/promotions are not defined within the Gambling Act, so we have therefore considered the definition of a bonus provided by the Competition and Markets Authority (CMA):

Bonus: Any funds or equivalent provided by the operator and added to a consumer's account from which the consumer can place wagers, including deposit matching funds for wagering at the consumer's discretion and free spins on specific games.

The online gambling industry offer numerous types of bonus offers, which are available to either all customers, a selection of customers or individuals dependent upon the specifics of the offer. The marketing of such offers can also vary from directly targeted communications to information about the offers placed on operator webpages. The former could be described as a proactive 'call to action', designed to stimulate engagement whereas the latter is informative to consumers that have already made a conscious choice to visit the operator's website. All of these types of bonus would fall within the CMA definition.

We do not consider the direct marketing of future bonuses to consumers identified as displaying indicators of harm is appropriate. Where consumers are identified as being at risk of harm they should not be encouraged to gamble further until that risk has been addressed. These restrictions would be relatively straightforward to implement - as they affect the direct promotion of future offers.

In relation to the take-up of bonuses, a consumer could consider that restricting their access to special offers as a result of indicators of harm puts them at a disadvantage compared to other consumers. On the other hand, the evidence from research and from people with lived experience is very clear that vulnerable consumers find that new bonus offers may increase the risk of harm and reduce the ability to stick within planned spend.

Any requirement to prevent the take-up of bonus offers would ideally be implemented without impacting unfairly on consumers who may be close to receiving a bonus they have spent some resources on earning, or where they are expecting to receive it as it is available to all customers. Indeed it is possible that in some circumstances consumers may be concerned it would be a breach of consumer rights legislation to revoke the offer

Call for Evidence questions: preventing bonus offers

27 In what specific circumstances (if any) should the Commission require as a minimum that operators prevent marketing and the take-up of bonus offers?

28 Are there any circumstances where it would be unfair to consumers to prevent them receiving bonus offers even when there are signs of harm? For example, this could relate to bonus offers which a customer has part-earned or they are expecting to receive as it is available to all customers.

Call for Evidence Section E: Impact and unintended consequences

Mitigating against unintended consequences

It is important when considering the options available to the Commission to reduce the risk of harm for vulnerable consumers that we consider the possible unintended consequences.

A key risk of introducing the affordability measures set out in the consultation is that consumers might decide to open more accounts to keep their spending under these levels with any one operator, or move to other forms of gambling.

We consider that these risks would be outweighed by the benefits of introducing consistent realistic threshold levels at which operators should be understanding more about their customers. This should build a culture whereby it is accepted that operators assess how affordable gambling over a certain level.

A key opportunity is that activity to avoid thresholds for affordability could also be used as a red flag by the financial sector which often has greater visibility of gambling across operators. This then would allow the financial sector the ability to take action to address gambling harms through programmes of activity which align with the expectations of the Financial Conduct Authority (FCA) to address consumer vulnerability.

Furthermore, measures to protect consumers from unaffordable online gambling would be most effective in a 'single customer view facility' to allow an individual's total online gambling to be assessed through a central system. We recognise that keeping a customer safe where operators currently only have a partial view of a customer's behaviour is a challenge. That is why we brought together experts from outside and within the gambling industry in February to explore how technology could create a single customer view, as it has the potential to significantly improve customer protection.

This event helped to define the Commission's challenge to industry and the Betting and Gaming Council is now taking this complex initiative forward with a first stage trial planned for the autumn. We continue to monitor progress and provide regulatory perspective along with the Information Commissioner's Office (ICO). Before then, creating the handbrake thresholds would reduce the risk of customers spending significantly beyond their means with any single operator, and open up the ability to refer consumers to support options or tools to manage their gambling.

Focussing in particular on the proposed affordability requirements, the table below sets out some possible unintended consequences and mitigations that we have identified. This call for evidence seeks views on other actions to reduce the risk of unintended impacts that would be to the detriment of consumers.

Possible unintended consequences	Possible mitigations
That consumers are unhappy with allowing access to private information such as affordability data or information about vulnerable situations.	<ul style="list-style-type: none"> - Building a culture where customers expect consistent checks at set thresholds. - The Commission provides information to consumers on the checks that may occur to help build this culture, which operators can refer to consumers. - Thresholds for affordability are set at a level which is reasonable and evidence-based.
That the threshold level we set for affordability checks, normalises gambling at that level for consumers and operators. In other words, that gambling under that level is seen as being risk free.	<ul style="list-style-type: none"> - Other indicators of harm are still relevant and should apply even at low levels – for example increasing gambling over time and chasing losses.
Consumers are driven to an illegal market.	<ul style="list-style-type: none"> - Ongoing enforcement activity to tackle and prevent illegal gambling. - Effective consumer messaging about risks of gambling with illegal operators.
Consumers move to retail gambling in order to avoid online gambling restrictions.	<ul style="list-style-type: none"> - The retail environment offers a different set of opportunities and challenges for customer interaction, including stakes and prizes limits, the ability to see the consumer and hold face to face conversations. - However, considering ways to update customer interaction guidance to address this risk for the non-remote environment would also be appropriate.
That consumers experience a curtailment of their ability to gamble as they wish once they reach a handbrake due to affordability concerns, and this could in their view happen at a detrimental point for them.	<ul style="list-style-type: none"> - Operators taking action early to minimise disruption to consumers. - Consumer awareness of regulatory requirements.

Call for Evidence questions: Unintended consequences

29 Do you consider there to be any other unintended consequences of the proposed measures we have set out?

30 How could these unintended consequences be mitigated most effectively?

How to measure impact of the changes

The Commission is committed to measuring the impact of our regulatory requirements as a whole and where the change is significant by conducting our own evaluation of impact.

In this case, we recognise that changing our customer interaction requirements would be a significant change. We would seek to measure our impact in three key ways – through compliance assessment and regulatory data, through population level success measures and through feedback from and engagement with consumers and people with lived experience.

- Through compliance assessment, we would assess how operators are meeting the requirements. For example, this would assess whether operators are conducting the appropriate affordability checks at the levels that may be required following the conclusion of this consultation. Our compliance data can help us identify if we continue to see cases such as those set out in the case studies - where operators set thresholds for action too high, act too slowly, and fail to act on information about vulnerability.
- Our regulatory data is a key way to gather trend data on the volume and nature of customer interactions. In our recent consultation on regulatory data, we explored how to categorise types of customer interactions (for example by the type of contact which may be made such as email and phone). However, in this consultation, we have proposed new categorisation of customer interactions from early generic contacts (pop-ups, emails) to very strong (ending the business relationship). We consider that the most useful regulatory data to gather would therefore be a breakdown of customer interactions by these new categories, and would welcome views from respondents on this approach.
- For overall success measures, we would assess the impact via population surveys. For example, are fewer consumers gambling more than they can afford? The main source of this data would be through problem gambling screening in population surveys such as the Health Survey (for example the Problem Gambling Severity Index (PGSI)).
- Evidence of the impact of gambling which is unavoidable or at times of extreme vulnerability from people with lived experience has been an important aspect informing this consultation. This has come from the Commission's interim experts by experience panel, our contact centre information, as well as information from GamCare through for example helpline statistics, discussions with consumers during our casework, and blogs from wider lived experience groups such as Gamvisory. It will be important to maintain this dialogue as the changes are implemented - many of these individuals have relationships with current consumers as part of peer support structures or other networks. These are an important form of intelligence about consumer experiences.

Call for Evidence questions: Impact

31 Can you suggest any additional ways to measure impact of the changes proposed by the consultation?

32 Do you have any comments on the proposed approach for regulatory data?

33 Do you have any evidence or information which might assist the Commission in considering the equalities impacts, within the meaning of [section 149 of the Equality Act 2010](#), of any decision it takes in the light of this consultation?

34 Do you have any evidence or information, at this stage, which might assist the Commission in considering what the economic impact of these changes would be on businesses?

Consultation and Call for Evidence – Next Steps

This consultation and Call for Evidence closes on 12 January 2021. During the consultation, we are keen to progress discussions and dialogue on the proposals and to collate any additional evidence to inform the thresholds for action.

Following the consultation, we will conduct a short supplementary consultation on the draft requirements and guidance, to include the thresholds for affordability checks. Although we are committed to an effective and transparent consultation process, it is also very important to take action at pace to address the risks we have identified. We will continue to enforce the existing requirements and to work with the industry and raise standards as the consultation progresses.

If implemented following consultation, the requirements and guidance would replace the current remote customer interaction guidance and the additional customer interaction guidance issued in May 2020.

We will also progress further action in the following areas:

- Making links between this work and the wider Commission programme of work for online protections, including the implementation of the High Value Customers requirements, and work to trial a view across multiple operators (Single Customer View).
- Identifying opportunities for trials and ‘sandbox’ initiatives which would bring wider benefits to those seeking to reduce gambling harms.
- Measuring impact of the changes.
- We have committed to a wider statement on vulnerability to reflect the Commission’s wider work to embed considerations of consumers in vulnerable situations across our work, and to be a platform for continuous improvement.
- Guidance will continue to evolve over time to take account of new research, evidence or toolkits emerging from work by other stakeholders. For example, GamCare and the Samaritans are working to advise operators on action that is possible to identify

and take action where there is a risk of suicide. This information may be appropriate to include in future versions of the guidance.

A key example of wider work is research and programmes which consider consumer public health messages and access to safer gambling tools. There are a number of research projects that will shortly publish results – notably the Revealing Reality reducing friction project and BIT anchoring trial project. We also look ahead to the outcomes of pilots of safer gambling products and campaigns that are led by people with lived experience, and international developments – for example the work on Low Risk Gambling Guidelines, which is an international initiative to deliver consistent, evidence-informed advice and messaging across all jurisdictions about how to ensure any gambling by a consumer is in a lower-risk manner, based on clear quantitative limits.⁶

Therefore, the Commission will consider how to embed the collective evidence developments in our work in the following areas: reducing friction to consumer messaging, increasing access and take-up of safer gambling tools and support, applying behavioural science findings to anchoring (removing drop down suggestions for customers setting deposit limits).

Call for Evidence questions: Next steps

35 Do you have any comments on the Commission's next steps?

36 Do you have any other comments on any aspect of this consultation and call for evidence?

⁶ The guidelines are led by the Canadian Centre on Substance Use and Addiction (CCSA) <https://ccsa.ca/developing-canadas-first-national-lower-risk-gambling-guidelines>