

# **Customer Interaction - Guidance for remote operators**

Consultation

November 2022

Overview

1. The Gambling Commission (the Commission) regulates most forms of commercial gambling in Great Britain. In this role, the Commission sets requirements for gambling businesses to conduct customer interaction in order to identify and protect customers at risk of harm. This forms part of a wider programme of work by the Commission to drive and support industry best practice in identifying customers at risk of harm and taking action to reduce the risk of harm, in support of the third licensing objective to ‘protect children and the vulnerable from being harmed or exploited by gambling’.
2. The Commission recently introduced new, more prescriptive, customer interaction requirements for remote operators, and the majority of these came into effect on 12 September 2022.
3. This consultation relates to proposed guidanceon these new requirements. We are keen to hear from stakeholders about any experiences of the implementation of the new requirements and about any ways in which the proposed guidance could be improved.

Background to this consultation

1. Following an earlier consultation and call for evidence exercise in 2020-2021, the Gambling Commission introduced new, more prescriptive, requirements for customer interaction for remote operators (the requirements). The 14 new requirements are set out in Social Responsibility Code Provision 3.4.3 and were published in April 2022.
2. The original intention was that the entirety of SR Code Provision 3.4.3 would come into force on 12 September 2022. However, following requests from the industry for a longer implementation period, it was decided to postpone the coming into force of requirement 10 until 12 February 2023 and to delay the coming into force of requirement 3. The Commission made an announcement to this effect on 2 September 2022.
3. SR Code Provision 3.4.3 envisages that the Commission will issue guidance on that provision, and that operators must take such guidance into account.[[1]](#footnote-2) We originally published a document setting out guidance on SR Code Provision 3.4.3 in June 2022, and the original intention was that that guidance would take effect on 12 September 2022, at the same time as SR Code Provision 3.4.3 was due to come fully into force.
4. However, the Commission decided that, although it does not always consult on guidance, in these particular circumstances it would be advantageous to use the window created by the postponement of the coming into force of the entirety of SR Code Provision 3.4.3 to consult on and consider possible amendments to the guidance. On this occasion, there is a specific opportunity to use the consultation exercise to explore recent experiences of stakeholders in the implementation of a set of new requirements and we hope that there will be examples of good practice to share during the consultation period. Accordingly, the Commission is consulting on the proposed guidance set out in the document appended to this consultation (**the proposed guidance document**), which is the same as the guidance published in June 2022.
5. In view of the fact that the Commission is consulting on guidance on SR Code Provision 3.4.3, requirement 2 and the reference to guidance in requirement 1 have not been brought into force (and the guidance published in June 2022 was never brought into effect). As a result, at present remote operators are at present not required to take into account any guidance specific to SR Code Provision 3.4.3.
6. As part of the consultation, we are particularly interested to hear from stakeholders about examples of good practice in the implementation of the new requirements, based on any lessons learned since the new requirements were first published in April 2022. We are also interested to hear from stakeholders about any issues arising out of any relevant recent research, evidence or casework.

Responding to the consultation

1. Thank you for taking part in this consultation. We ask that stakeholders respond to the consultation using the online [survey on our website](https://consult.gamblingcommission.gov.uk/author/remote-customer-interaction-consultation-on-guidan), although responses can also be submitted by post to: Policy Team, Gambling Commission, 4th Floor, Victoria Square House, Birmingham, B2 4BP. This print layout of the consultation is laid out slightly differently to the online version.
2. As part of this consultation, we may decide to publish your name (if you are responding in a personal capacity) or the name of your organisation (if you are responding on your organisation’s behalf) on our website to indicate you responded to this consultation. We ask that you indicate whether you provide your consent to these details being published:
	* I CONSENT to the publication of my name or organisation to indicate I responded to this consultation
	* I DO NOT CONSENT to the publication of my name or organisation to indicate I responded to this consultation.
3. If you provide consent this information may be placed on our website to provide information about who responded to the consultation exercise.
4. Information about how the Gambling Commission processes your personal information, including a specific section on information we collect as part of a Gambling Commission consultation exercise, can be found in the [Gambling Commission’s Privacy Policy](https://www.gamblingcommission.gov.uk/privacy-policy).
5. We originally indicated that this consultation will last for 6 weeks. However, recognising that this timeframe will include the holiday period, we have decided to extend the time period further. This consultation will therefore last for approximately 9 weeks and will close on Monday 23 January 2023.

Issues not addressed in this consultation

1. This consultation relates to guidance on SR Code Provision 3.4.3. The following issues are not within the scope of this consultation exercise:
	* the requirements of SR Code Provision 3.4.3 itself.
	* matters associated with unaffordable gambling and the specific thresholds which should apply. The Commission has committed to a separate consultation on the three key financial risks which it has identified in that context: significant unaffordable losses over a short period (binge gambling), significant unaffordable losses over a sustained period, and customers who are particularly financially vulnerable.
	* matters associated with sharing data across operators to identify customers at risk of harm, which is often referred to as a ‘single customer view’. [Information about the Commission’s work on a single customer view](http://www.gamblingcommission.gov.uk/news/article/an-update-on-the-single-customer-view-industry-challenge) is available on the Commission’s website.

Next steps

1. The Commission will consider the responses received in relation to this consultation before making a fresh decision on guidance on SR Code Provision 3.4.3 and on the timetable for implementing such guidance.
2. Irrespective of this consultation, requirement 10 of SR Code Provision 3.4.3 will come into force on 12 February 2023 in any event.

Introductory Consultation Questions

**Name**

**Email address**

**Tell us a little bit about you to help us understand your perspective. Are you:**

[List of options]

**How often do you gamble?**

[List of options]

**Have you gambled online in the past four weeks?**

[List of options]

**To what extent do you agree or disagree that in the past 12 months, you or someone close to you has experienced negative consequences as a result of your gambling'**

[Options: Strongly agree, Agree, Neither agree nor disagree, Disagree, Strongly disagree, Prefer not to say.]

**To what extent do you agree or disagree that in the past 12 months, you have experienced negative consequences as a result of someone else's gambling'**

[Options: Strongly agree, Agree, Neither agree nor disagree, Disagree, Strongly disagree, Prefer not to say.]

**Privacy notice and consent/not consent**

**The overall format of and language used in the proposed guidance document, the introduction section, and Section A**

The format of the proposed guidance document

1. The proposed guidance document addresses each of the requirements of SR Code Provision 3.4.3 in turn. In relation to each requirement, the proposed guidance document adopts the following structure:
	* A reminder of the relevant requirement – extracted from SR Code Provision 3.4.3.
	* An explanation of the Commission’s aim in setting the requirement.
	* Formal guidance which operators would be required to take into account.
	* Any additional information which we consider may be of assistance to operators, but which they would not be required to take into account.
2. In the proposed guidance document, the requirements are grouped into four sections – the overarching duty to conduct customer interaction and then each of the three elements of customer interaction (**identify, act, evaluate**).
	* Section A sets out guidance on the overarching duty imposed by requirement 1 of SR Code Provision 3.4.3 to implement effective customer interaction systems and processes. It also sets out the aim of requirement 2.
	* Section B sets out guidance on the requirements relevant to **identifying** customers at risk of harm.
	* Section C sets out guidance on the requirements relevant to **taking action** for customers at risk of harm.
	* Section D sets out guidance on the requirements relevant to **evaluation**.
3. On occasion, the proposed guidance document uses the language of ‘must’ or ‘the Commission expects’. This language is used in contexts where the guidance is intended to reflect the requirements of SR Code Provision 3.4.3. The proposed guidance document also uses the word ‘should’, which denotes an approach or action that is not required by SR Code Provision 3.4.3, but which operators are required to consider. We are interested in stakeholders’ views on the language used in the proposed guidance document in this respect.

The introduction section in the proposed guidance document

1. The introduction section in the proposed guidance document explains how the Commission intends the guidance to be used by operators and how the Commission will itself use the guidance on SR Code Provision 3.4.3. We are interested in views on the approach set out in these paragraphs.
2. In the paragraph entitled ‘How the Commission will use this guidance’, the proposed guidance document states: ‘Social responsibility code 3.4.3 sets out the requirements relevant licensees must comply with in relation to remote customer interaction. For compliance and enforcement purposes, we will expect licensees to demonstrate how their policies, procedures and practices meet the required outcomes. This can be through implementing relevant parts of the guidance or demonstrating how and why implementing alternative solutions equally meet the outcomes’.
3. In the paragraph entitled ‘Amending this guidance over time’, the proposed guidance document states that: ‘Our understanding of gambling harms and how they manifest is constantly evolving, and industry continue to trial and assess best practice in addressing those harms. So, for the purposes of raising standards, protecting customer interests, and preventing harm to customers, we will update and re-issue guidance. New guidance may be appropriate for example where new evidence or risks emerge which may have a meaningful impact on how the outcomes can be met, or to reflect lessons learned from compliance and enforcement activity.’ We have also outlined some examples of the circumstances in which the guidance may be reviewed and updated. Further, we have identified work being undertaken which may result in future amendments to the guidance, for example, a future consultation on matters associated with unaffordable gambling (the three key financial risks for consumers) as well as developments on relevant research or statistics. This part of the proposed guidance document reflects the Commission’s view that it is likely that the guidance will, in the future, be amended over time to reflect changes in research, evidence and technology and to share emerging good practice or lessons learned.

Section A of the Proposed Guidance Document: General requirements

1. The first main section of the proposed guidance document (Section A) addresses requirements 1 and 2, which relate to the overarching requirement for customer interaction and the requirement to take into account the guidance.

Consultation Questions – structure, language and format of the guidance document, introduction section, and Section A

To what extent do you agree that guidance should include additional information which may assist operators but which they are not required to take into account?

Options: Strongly agree, Agree, Neither agree nor disagree, Disagree, Strongly disagree, Prefer not to say.

Do you have any comments on the overall structure, language and format of the proposed guidance document?

[Free text]

Do you have any other comments on the introduction section or on Section A of the proposed guidance document?

[Free text]

Section B of the proposed guidance document: Identify customers at risk of harm

1. In Section B of the proposed guidance document we set out guidance associated with requirements **3 – 7** which relate to identifying customers at risk of harm.
2. We are interested in views from stakeholders on how operators should identify customers at risk of harm in line with the requirements, including responses from operators on their experiences of applying and refining their processes of identifying customers at risk of harm.

Key issues associated with Section B of the guidance

The Commission considers that the key issues associated with Section B of the proposed guidance document are:

- How the guidance explains vulnerability, and the actions operators can take to support customers who may be in a vulnerable situation.

- Guidance on the indicators of harm specified by requirement 5.

- What are to be considered ‘strong indicators of harm’.

- How affordability and financial risk is addressed in the guidance, given the Commission’s commitment to consult further on this topic in the future.

Guidance on vulnerability

1. When customers 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. This is why we consider it important that the guidance supports the requirements of SR Code Provision 3.4.3 by providing more information about which factors may suggest that a customer is in a vulnerable situation, and the types of action that an operator can take.
2. Paragraph 3B of the proposed guidance document explains that a customer in a vulnerable situation is ‘somebody who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care’. This approach was adopted in the Commission’s first [Corporate Strategy 2018 - 2021](https://assets.ctfassets.net/j16ev64qyf6l/1GBL4oxzfZHLnW6hha6Ixh/f6f50060887d969dfbfa0c4ff6ff3600/Strategy-2018-2021.pdf), where the Commission discussed the importance of an approach which took account of both the personal circumstances of the consumer and the actions of firms. This more dynamic approach to vulnerability has underpinned our approach in the proposed guidance document.
3. Paragraph 3F of the proposed guidance document sets out the factors which we consider might make an individual more vulnerable to experiencing gambling related harm. These are personal and demographic, situational, behavioural, market related, and access issues. These issues have been identified following an assessment of the approaches to vulnerability adopted by other regulators and a range of international bodies.
4. We have received some queries about why certain factors have been referred to in the proposed guidance document. For example, we have received queries about why young adults may be considered to be vulnerable. It is the Commission’s assessment of the current evidence that young adults are vulnerable to gambling harm due to a combination of biological, situational, and environmental factors, and are more likely to have limited gambling experience and low motivation to adopt protective behaviours. In addition, there may be risks associated with the onset of gambling and the occurrence of ‘life events’ that would typically occur most often within this age group, such as living independently for the first time or moving away from support systems relating to family, friends, or education.
5. The approach we take in paragraph 3G of the proposed guidance document is to set out examples of how operators can identify vulnerability and action which they can take. We would be interested to hear from operators and other stakeholders about further examples of good practice.

Indicators of harm

1. During the 2020-21 consultation and call for evidence exercise, differing views were expressed about the extent to which the Commission should be prescriptive about the indicators of harm and the thresholds at which action must be taken. Some respondents considered that a highly prescriptive approach to setting indicators of harm was appropriate and, failing that, detailed guidance should guide operators on detailed algorithms to identify harm and trigger action. Other respondents considered that a more flexible approach was preferable.
2. Requirement 5 prescribes certain types of indicators of harm that must be used, but the requirement is not prescriptive as to *how* operators use these indicators. Paragraph 5B of the proposed guidance document is intended to provide examples of the particular customer behaviours which may be relevant to the types of indicators identified in requirement 5.
3. The Commission’s view is that it is not appropriate at this time to introduce detailed guidance on specific thresholds for each indicator of harm or detailed guidance on the exact actions that should be taken when different indicators of harm and/or combinations of indicators of harm are present. This is because the specific thresholds for identifying harm and the action taken should reflect the individual circumstances of the customer and the number and strength of the indicators identified. Detailed guidance which set out particular thresholds and the action expected in each and every circumstance would be extremely lengthy and may lead to operators adopting a tickbox approach to the guidance rather than implementing processes which suit their product and consumers.
4. However, we are interested to hear of any examples of good practice or lessons learned about how indicators of harm are used which could be reflected in the guidance.

Strong indicators of harm

1. Requirements 10 and 11 refer to ‘strong’ indicators of harm, as set in the operator’s processes, and set out specific actions to be taken at that level. The Commission is not currently proposing to specify in the guidance what should be considered strong indicators of harm because this will depend on the circumstances of individual cases – for example there could be one indicator which itself is a strong indicator or a number of less serious indicators might cumulatively amount to a ‘strong’ indicator.
2. We are interested in operator experiences of implementing these requirements where ‘strong indicators of harm’ are the trigger for action; and how they have approached what are ‘strong’ indicators of harm. This can help inform whether the guidance should set out some further examples of good practice.

Affordability and financial risk

1. As set out earlier in this consultation , the Commission has indicated that it plans to consult on the three key financial risks associated with significant unaffordable gambling in the future. We have received queries about how the guidance will treat this topic in the meantime.
2. At paragraph 4F of the proposed guidance document, we have replicated content which appeared in the 2019 customer interaction guidance document (connected with SR Code Provision 3.4.1). We therefore propose to keep the guidance on unaffordable gambling consistent with that previous guidance until the matter has been explored in the forthcoming consultation.

Consultation Questions – identifying customers at risk of harm

Vulnerability: Do you have any comments on the factors which might make a customer more vulnerable to experiencing gambling related harms or examples of how operators should identify vulnerable customers and take action?

[Free text]

Indicators: Do you have any comments on the extent to which the Commission should provide further guidance about the types of indicators that should lead to different levels of action?

[Free text]

Strong indicators: To what extent do you consider that the Commission should set out good practice examples of ‘strong’ indicators of harm?

[Strongly agree - to Strongly disagree]

[If Agree or Strongly Agree only] Please explain what examples could be included in the guidance document about operator good practice in setting a level for ‘strong’ indicators of harm.

[Free text]

Do you have any other comments on Section B of the proposed guidance document?

[Free text]

**Section C of the proposed guidance document: Take action for customers at risk of harm**

1. In Section C of the proposed guidance document we set out guidance associated with requirements **8 – 11**, which relate to taking action for customers at risk of harm.

Key issues associated with Section C of the guidance

The Commission considers that the key issues associated with Section C of the proposed guidance document are:

- Guidance on the increasing scale of actions.

- Guidance about preventing the take up of new bonus offers, about issues which should be considered in relation to customers who are partway through a bonus, and about transparency to consumers when they are prevented from taking up new bonus offers.

- Guidance concerning practical solutions which are automated.

The increasing scale of actions

1. A key issue associated with this section of the proposed guidance document is the increasing scale of actions which operators should take in response to indicators of harm.
2. The proposed guidance on requirement 9 includes a scale of interactions which is reflected in a diagram setting out a visualisation of the types of actions at increasing strength levels (from early generic customer interactions through to very strong customer interactions). The Commission included a version of this scale of interactions in the 2020-21 consultation exercise and differing views were received from stakeholders in relation to this scale.
3. Some respondents considered that including the scale of actions in the guidance conferred too much discretion on operators and that the industry would not meet the aims of tailoring action to the level of indicators of harm without further specific requirements. Further, they argued that the scale itself included too many steps, and as a result, the escalation response by operators would be too slow (with some respondents highlighting their personal experiences where no action had been taken in response to risk of harm).
4. Some respondents considered that any action by operators to reduce the risk of harm may curtail the freedom of consumers and was excessive; and that the use of the scale of actions in guidance may place too high expectations on operators.
5. The Commission currently considers that it is useful to set out the scale of appropriate actions in response to differing numbers and severity of indicators of harm. We consider that the scale assists operators to comply with requirement 9 to ‘tailor the type of action they take based on the number and level of indicators of harm exhibited’. We do not consider it appropriate at this time to set requirements which would remove the discretion or ability on the part of operators to tailor their processes to their business and their customers.
6. Further, our current view is that the diagram in the proposed guidance document contains the right level of detail to help operators understand and take action to implement the requirements. However, we are interested to hear views from stakeholders on the content of the diagram and whether the specific actions for each strength level are appropriate.
7. We received one query on the language used in the scale of actions, namely whether the ‘stronger’ and ‘strong’ labels on the scale of actions had been placed incorrectly. It was suggested that these labels should be re-ordered on the basis that ‘stronger’ action suggests action of a greater strength than ‘strong’ action. Our present view is that the label ‘strong’ should be retained, along with the actions that are listed under that label, as ‘strong’ corresponds to the terminology of ‘strong indicators of harm’ and therefore provides a link between the two concepts.
8. An alternative approach in relation to use of the comparative ‘stronger’, which would avoid the risk of any confusion, would be to re-label the ‘stronger’ category as ‘medium-strong’ (or similar). We would welcome stakeholders’ views on such an approach.

Take up of new bonus offers and transparency to consumers

1. The proposed guidance in relation to requirement 10 (which will come into force on 12 February 2023) is intended to assist operators in understanding how they can comply with the restrictions on the take up of new bonus offers and addresses queries which were received by the Commission following the publication of the requirements in April 2022.
2. The proposed guidance confirms that where strong indicators of harm have been identified, the take up of new bonuses should be prevented as soon as practicable. Paragraphs 10C and 10D of the proposed guidance document are intended to assist operators to identify which matters should be considered where customers are part way through a bonus offer in order to inform a decision as to whether the customer should be prevented from completing the bonus offer. Paragraph 10F of the proposed guidance document explains what the Commission considers to be a bonus for the purposes of requirement 10.
3. Paragraph 10H of the proposed guidance document is intended to assist operators to ensure that they are transparent about when they might prevent a customer from receiving a bonus offer.
4. We would welcome views on the extent to which the proposed guidance on these three issues assists operators to understand the requirement in relation to preventing the take-up of new bonus offers, the approach to customers part way through a bonus, the approach which should be taken in relation to transparency to consumers and which forms of bonus offers are considered within scope of the requirement.

Automated solutions

1. The proposed guidance in relation to requirement 11 is intended to assist operators to implement automated processes to ensure that strong indicators of harm are acted on in a timely manner.
2. Whilst compliance with the UK GDPR is a matter for each operator and ultimately the Information Commissioner’s Office and/or the courts, the guidance in relation to requirement 11 is intended to ensure that operators are compliant with the provisions relating to automated processing laid down by Article 22 of the UK GDPR and act consistently with good practice.
3. Some stakeholders have argued that an obligation to conduct a freestanding substantive review of each automated decision, regardless of whether there is any request by the customer to contest the decision, would go beyond the legal requirements set out in the UK GDPR.
4. Accordingly, a possible alternative approach to that adopted in the proposed guidance document would be to explain in the guidance that the manual review referred to in requirement 11 requires an operator to contact the customer and inform them of the automated decision and their right to contest the decision, rather than undertake a substantive review of the decision in each case. If a customer contests the automated decision, the operator will then be required to conduct a substantive review of the decision; but a substantive review of the decision is not required by requirement 11 if the decision is not contested by the customer. We are interested in stakeholders’ views on this alternative approach. We are also interested in experiences of operators in implementing automated solutions, and in particular if there are good examples of automated solutions in practice which may help to inform the guidance.

Consultation Questions – taking action for customers at risk of harm

Increasing scale of actions: Do you have any comments on the proposed scale of actions which operators can take, to reflect how actions should increase according to the nature of the indicators of harm?

[Free text]

Targeting bonus offers: Do you have any comments on the guidance on the requirement to prevent the take-up of new bonus offers and the guidance on issues for customers who are part way through a bonus offer?

[Free text]

Transparency to consumers: Do you have any experiences to share about transparency to consumers when they are prevented from taking up bonus offers for regulatory purposes?

[Free text]

Automated solutions and manual review: Do you have any views on the guidance relating to automated processing and the possible alternative approach to a manual review which would mean operators undertake a substantive review only where the decision was contested by the customer?

[Free text]

Other comments Section C: Do you have any other comments on Section C of the proposed guidance which relates to taking action when there are indicators of harm?

[Free text]

**Section D of the proposed guidance document: Evaluate**

1. In Section D of the proposed guidance, we group guidance associated with requirements **12 – 14** which relate to evaluating the impact of the effectiveness of customer interaction.

Key issues associated with Section D of the guidance

The key issue associated with Section D of the proposed guidance is guidance associated with ensuring interactions are, at a minimum, in line with problem gambling rates

Problem gambling rates

1. The proposed guidance is intended to assist operators in understanding how they should assess the minimum number of customer interactions required in order to meet requirement 14.
2. We have received queries about what counts as a customer interaction. In other contexts, such as in relation to numbers of customer interactions for regulatory returns, we have indicated that a customer interaction is initiated by the operator, and is prompted by observed behaviour or activity by a customer. We would be interested in whether it would be helpful to give similar guidance on what counts as a customer interaction in the guidance document.
3. Paragraph 14A of the proposed guidance clarifies that operators must meet the minimum levels of customer interactions over an annual period. The Commission considers that this is proportionate for operators as it allows for fluctuations from one month to the next.
4. Paragraph 14C of the proposed guidance document is intended to assist operators who offer more than one product or activity. It explains that operators will need to calculate their overall problem gambling rate based on the proportions of GGY they generate for each relevant activity. We would welcome views on whether it would be helpful to provide a worked example of how an overall problem gambling rate should be calculated.
5. We would also welcome further views on whether there is additional guidance which should be included to help operators comply with requirement 14.

Consultation Questions – evaluation

Problem gambling rates: Do you have any comments on the guidance for operators who offer more than one gambling activity to show how they should calculate one overall problem gambling rate in proportion to the activities they offer?

[Free text]

Other comments Section D: Do you have any other comments about Section D of the proposed guidance document, relating to evaluation?

[Free text]

**Further consultation questions**

1. The Commission has given, and will continue to give consideration to potential equalities impacts, having due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. At this stage, it seems to us that the following points are most relevant:
* In setting the requirements for customer interaction, and drafting the proposed guidance, the Commission considers that decisions to cease a customer relationship or place restrictions on a customer should be tailored to the customer’s individual circumstances and not based solely on personal, demographic or other factors for the customer. We consider that the latter approach could have a disproportionate effect on persons with protected characteristics.
* The guidance indicates that action must be tailored to the individual circumstances, depending on the number and severity of the indicators of harm, and it may most often be appropriate to offer support to customers who may be in a vulnerable situation, rather than impose solutions on them. Again, we consider that the imposition of solutions could have a disproportionate effect on persons with protected characteristics.
1. The Commission does not require in SR Code Provision 3.4.3, or set out in the proposed guidance document that operators should assess all of their customers for vulnerability - requiring customers to provide information in order to assess any factors which may indicate that a customer is vulnerable to gambling-related harm is likely to be disproportionate to the risks and may have a disproportionate negative impact on persons with protected characteristics. Our requirements on vulnerability, and the proposed guidance associated with vulnerability, primarily focus on circumstances where operators should identify indicators of vulnerability from information available to them.
2. The Commission would welcome views in relation to the potential equalities impacts of the proposed guidance. We want to understand the potential effects of the proposed guidance on different groups and, in particular, whether the proposed guidance is likely to have a disproportionate impact on persons who have or share protected characteristics and what action may need to be taken in order to address any potential negative impact.

We are interested to hear about recent developments in order to assess whether additions or amendments to the guidance document are appropriate. We have three key areas where we would welcome input from stakeholders:

* any recent developments in research which may suggest additional content for the guidance.
* experiences of consumers which may inform good practice for customer interaction.
* experiences of operators who have been making any amendments necessary to meet the requirements of SR Code Provision 3.4.3, and may have good practice or lessons learned to share.

Consultation Questions – final questions

Research: Are you aware of any recent developments in research which may suggest additional or different content for the guidance document?

[Free text]

Consumer experience: Do you have any experience of actions which have been taken by operators which may inform good practice in implementing the requirements?

[Free text]

Financial impact: Do you have any information or views about whether the proposed guidance would be likely to result in increased costs, above and beyond those costs that would be incurred in any event as a result of SR Code Provision 3.4.3?

[Free text]

Equalities impact: Do you have any comments or evidence in relation to any potential equalities impacts of the proposed guidance? In particular, do you have any concerns that the guidance could have a negative or disproportionate impact on persons with protected characteristics?

[Free text]

Other matters: Do you have any other comments about any part of the proposed guidance document or any content which should be included in the guidance document?

[Free text]



**Proposed guidance document – Remote Customer interaction guidance**

**(Proposed Formal guidance under SR Code 3.4.3)**

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| **Proposed guidance document** **Introduction and Section A** |

**Introduction**

When there are indicators that a customer may be experiencing harm, acting early and quickly could help stop or prevent the harm worsening.Spotting signs of harm and taking early action can be a preventative measure, designed to enable a customer to gamble safely. It can also be reactive, to support a customer when harm is being experienced to reduce or stop gambling - even when it is reactive, it is most effective if the harm is identified early and responded to quickly.

**Your regulatory responsibilities**

All licensees are required to implement customer interaction in a way which minimises the risk of customers experiencing harms associated with gambling, as set out in Social Responsibility Code 3.4.3 of the [Licence Conditions and Codes of Practice (LCCP](http://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp/online)[)](https://gamblingcommission.gov.uk/licensees-and-businesses/lccp/online).

|  |
| --- |
| **Social responsibility code provision 3.4.3** **Remote customer interaction**  *All remote licences, except any remote lottery licence the holder of which does not provide facilities for participation in instant win or high frequency lotteries1, remote gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino, ancillary remote betting, remote betting intermediary (trading rooms only) and remote general betting limited licences.* Licensees must implement effective customer interaction systems and processes in a way which minimises the risk of customers experiencing harms associated with gambling. These systems and processes must embed the three elements of customer interaction – identify, act and evaluate – and which reflect that customer interaction is an ongoing process as explained in the Commission’s guidance (see paragraph 2). Licensees must take into account the Commission’s guidance on customer interaction for remote licensees as published and revised from time to time (‘the Guidance’). Licensees must consider the factors that might make a customer more vulnerable to experiencing gambling harms and implement systems and processes to take appropriate and timely action where indicators of vulnerability are identified. Licensees must take account of the Commission’s approach to vulnerability as set out in the Commission’s Guidance. Licensees must have in place effective systems and processes to monitor customer activity to identify harm or potential harm associated with gambling, from the point when an account is opened. Licensees must use a range of indicators relevant to their customer and the nature of the gambling facilities provided in order to identify harm or potential harm associated with gambling. These must include: * 1. customer spend
	2. patterns of spend
	3. time spent gambling
	4. gambling behaviour indicators
	5. customer-led contact
	6. use of gambling management tools, and
	7. account indicators.

 In accordance with SR Code Provision 1.1.2, licensees are responsible for ensuring compliance with the requirements. In particular, if the licensee contracts with third party business-to-business providers to offer any aspect of the licensee’s business related to the licensed activities, the licensee is responsible for ensuring that systems and processes are in place to monitor the activity on the account for each of the indicators in paragraph 5 (a-g) and in a timely way as set out in paragraphs 7 and 8.  A licensee’s systems and processes for customer interaction must flag indicators of risk of harm in a timely manner for manual intervention, and feed into automated processes as required by paragraph 11.  Licensees must 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. This must include, but not be limited to, systems and processes which deliver: 1. tailored action at lower levels of indicators of harm which seeks to minimise future harm
2. increasing action where earlier stages have not had the impact required
3. strong or stronger action as the immediate next step in cases where that is appropriate, rather than increasing action gradually
4. reducing or preventing marketing or the take-up of new bonus offers where appropriate, and
5. ending the business relationship where necessary.

 Licensees must prevent marketing and the take up of new bonus offers where strong indicators of harm, as defined within the licensee’s processes, have been identified.  Licensees must ensure that strong indicators of harm, as defined within the licensee’s processes, are acted on in a timely manner by implementing automated processes. Where such automated processes are applied, the licensee must manually review their operation in each individual customer’s case and the licensee must allow the customer the opportunity to contest any automated decision which affects them.  Licensees must implement processes to understand the impact of individual interactions and actions on a customer’s behaviour, the continued risk of harm and therefore whether and, if so, 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, and be able to demonstrate to the Commission the outcomes of their evaluation.  Licensees must take account of problem gambling rates for the relevant gambling activity as published by the Commission*2*, in order to check whether the number of customer interactions is, at a minimum, in line with this level. For the avoidance of doubt, this provision is not intended to mandate the outcome of those customer interactions. **1** A high frequency lottery is a lottery in which any draw takes place less than one hour after a draw in a previous lottery promoted on behalf of the same non-commercial society or local authority or as part of the same multiple lottery scheme. |
|  **2** For ease of reference the [problem gambling rates for the relevant gambling activities are available on our website](https://www.gamblingcommission.gov.uk/licensees-and-businesses/page/the-importance-of-interacting-with-customers). |

Licensees are required to take into account this guidance. It has been developed to support effective delivery of customer interaction systems and processes in order to meet the outcomes of identifying and reducing harm.

**Scope of Social Responsibility Code 3.4.3 and associated guidance**

The SR code 3.4.3 and this guidance applies to: all remote licences, except any remote lottery licence the holder of which does not provide facilities for participation in instant win or high frequency lotteries, remote gaming machine technical, gambling software, host, ancillary remote bingo, ancillary remote casino, ancillary remote betting, remote betting intermediary (trading rooms only) and remote general betting limited licences.

Lottery licensees are therefore only within scope of these requirements if they offer instant win games or high frequency lotteries. High frequency lotteries are defined as a lottery in which any draw takes place less than one hour after a draw in a previous lottery promoted on behalf of the same non-commercial society or local authority or as part of the same multiple lottery scheme.

The code applies to all remote licences except those stated. Therefore, providers of telephone only services under a full remote licence are within scope of these requirements.

**How to use this guidance**

The guidance is intended to support compliance with LCCP SR code 3.4.3. We do this by setting out the individual requirements and for each one:

* explaining the aim of each individual requirement, so that licensees can develop their systems to address that aim.
* providing formal guidance which operators must take into account and be able to demonstrate how they have done so.
* supplying some additional guidance and information for further context.

**How the Commission will use this guidance**

Social responsibility code 3.4.3 sets out the requirements relevant licensees must comply with in relation to remote customer interaction. For compliance and enforcement purposes, we will expect licensees to demonstrate how their policies, procedures and practices meet the required outcomes. This can be through implementing relevant parts of the guidance or demonstrating how and why implementing alternative solutions equally meet the outcomes.

**Amending this guidance over time**

Our understanding of gambling harms and how they manifest is constantly evolving, and industry continue to trial and assess best practice in addressing those harms. So, for the purposes of raising standards, protecting customer interests, and preventing harm to customers, we will update and re-issue guidance. New guidance may be appropriate for example where new evidence or risks emerge which may have a meaningful impact on how the outcomes can be met, or to reflect lessons learned from compliance and enforcement activity.

At the time of publishing, we know of a number of key points when the guidance will be reviewed and may be updated.

* Algorithms best practice: The Commission has kickstarted a project on best practice in the use of algorithms in identifying and taking action to minimise harm. This is a means of operators collaborating and sharing best practice as they implement the customer interaction requirements and take account of this guidance. The Commission will consider any relevant lessons learned from that project and may make amendments to this guidance as a result.
* Further customer interaction consultation: the Commission has committed to a consultation on how to tackle three key financial risks for customers. These are significant unaffordable losses over a short period (binge gambling), significant unaffordable losses over time, and customers who are in a financially vulnerable situation. Following the consultation on these new requirements, this guidance will be updated.
* Relevant research: the guidance cross-refers to the Commission’s official statistics on problem gambling prevalence. When these statistics are updated, and where other relevant research relating to harm and vulnerability emerges, this guidance will also be updated.

**Section A General requirements**

**Requirement 1**

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|  **1.** Licensees must implement effective customer interaction systems and processes in a way which minimises the risk of customers experiencing harms associated with gambling. These systems and processes must embed the three elements of customer interaction – identify, act and evaluate – and which reflect that customer interaction is an ongoing process as explained in the Commission’s guidance (see paragraph 2).   |

**Aim 1**

To set out the overall aim of the Customer Interaction requirements that licensees must have effective controls to minimise the risk of customers experiencing harms associated with gambling.

**Formal guidance 1**

**1A** The systems and processes must embed the three elements of customer interaction which reflect that customer interaction is an ongoing process.

* **Identify** harm – this is an ongoing process of *monitoring*, using *indicators of harm* to flag signs that a customer may be at risk.

* **Act** to minimise harm – Tailoring the action to the number of types of indicators of harm is critical. *Review the indicators and escalate action* in response to those indicators. In some cases, this will *require automated action*, in line with the requirements. *Record* the action or interaction taken. *Continue to monitor and ramp up action* where necessary.

* **Evaluate** to consider the effectiveness of the action taken and whether further action is required. Evaluation processes should built in from the beginning – they are not an afterthought.

This means that licensees must build processes which include the need to identify risk, take appropriate action and evaluate the impact of that action, which then returns to further monitoring, identification, action and evaluation. This is not a one-off process but should be considered throughout the customer’s relationship with the licensee.

**Additional guidance and information 1**

A visualisation of the continuous and ongoing process outlined in formal guidance 1A:

Identify

Act

Evaluate

**Requirement 2**

**2.** Licensees must take into account the Commission’s guidance on customer interaction for remote licensees as published and revised from time to time (“the Guidance”).

**Aim 2**

The aim of this requirement is simply to ensure that licensees take into account this guidance, which has been developed to support effective delivery of customer interaction systems and processes that are designed to meet the outcomes of identifying and minimising harm, and that amendments over time are also taken into account.

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| **Proposed guidance document** **Section B: Identify** |

**Section B Identify**

**Requirement 3**

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|  **3.** Licensees must consider the factors that might make a customer more vulnerable to experiencing gambling harms and implement systems and processes to take appropriate and timely action where indicators of vulnerability are identified. Licensees must take account of the Commission’s approach to vulnerability as set out in the Commission’s Guidance.   |

**Aim 3**

The overall aim is that customers who are in a vulnerable situation are supported - we require operators to take action when they are aware that a customer is in a vulnerable situation.

**Formal guidance 3**

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| **3A**  | When customers 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. The key forms of action when a licensee is aware of a customer being in a vulnerable situation are: * preventive such as setting limits with or on behalf of a customer in cases where it is considered continued gambling is possible, and
* reactive such as taking into account that the customer may not have understood the terms and conditions when considering whether a refund is appropriate.
 |
| **3B**  | 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’.*  |
| **3C**   | To do this, licensees must understand that 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 such as a bereavement or loss of income. It is the responsibility of the licensee to implement systems and processes which effectively incorporate an understanding of that risk so when identified they can act to minimise harm.  |
| **3D**     | We recognise that licensees may not always have information available to them to identify vulnerability. However, we expect licensees to: * consider the factors that might make their customers more vulnerable to experiencing gambling harm.
* understand whether a customer is at greater risk of experiencing gambling harm and to what extent
* take timely action in response to the information they have available.
 |
| **3E**  | Licensees 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

|  |  |
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| **3F**  | As part of ‘know your customer’ and developing customer interaction policies and procedures, licensees should consider the factors that might make an individual more vulnerable to experiencing gambling related harm. Factors include:  |
| •   | **Personal and demographic:** if the individual is experiencing poor physical or mental health, physical or cognitive impairment, suffering side effects from a brain injury or medication or has an addiction. If a customer is a young adult, or an older adult.  |
|  | •   | **Situational:** 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.  |
|  | •   | **Behavioural:** if an individual has a higher than standard level of trust or high appetite for risk. In the case of gambling, this can be flagged if the customer takes a high-risk strategy, particularly if inexperienced; if the customer takes a disproportionate effort to earn a bonus offer.  |
|  | •   | **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.  |
|   | •  | **Access**: if an individual has difficulty accessing information because of poor literacy or numeracy skills, knowledge, dyslexia.  |
| **3G**  | The table below sets out some example scenarios of how a licensee may become  |

aware of a vulnerability and the actions they should take as a result.

|  |  |  |
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| **Category of Explanation vulnerability**   | **Example indicator for gambling licensees**   | **Example actions available to the licensee**   |
| **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.    | Review account for other indicators of harm, and continue to monitor closely.  Ensure appropriate gambling management tools are selected by the customer or on behalf of the customer.  Cease business relationship, particularly in the case of brain injury or medication which increases risk taking behaviour.  |
| **Health:**  | The customer is at risk of suicide  | The customer discusses harming themselves during contact with the customer  | The licensee should have processes in place for identifying and escalating the risk of suicide, including where necessary referral to emergency services.  Licensees should refer to the [Samaritan’s guidance for operators.](https://www.samaritans.org/news/samaritans-new-guidelines-gambling/)  |
| **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.  | Ensure easily digestible information is made available for all customers.  Review account for other indicators of harm, and continue to monitor closely.   |
| **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.  | Review account for other indicators of harm, and continue to monitor closely.  Ensure appropriate gambling management tools are selected by the customer or on behalf of the customer.  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.  |
| **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 customers 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.   |

**Additional guidance and information 3**

**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, 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.

Compliance and enforcement – lessons to be learnt from cases involving customers in a vulnerable situation 1

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

Compliance and enforcement – lessons to be learnt from cases involving customers in a vulnerable situation 2

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

**Requirement 4**

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

**Aim 4**

The aim is to ensure that there are effective systems and processes to monitor all customer activity and identify harm. In particular, the aim is that customers who may be at risk of harm are identified from the point at which an account is opened and that indicators of harm are not overlooked while the operator waits for a pattern of behaviour to emerge.

**Formal guidance 4**

**4A** Licensees must identify customers that *may* be at risk of harm using all of the information available about the customer. This means balancing all the financial, time and behavioural indicators and applying knowledge about their overall customer base and individual customers. 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 customer and apply proportionate customer interaction as a result.

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| **4B**   | We set out in paragraph 5 of the code (3.4.3) the seven required categories of indicators that licensees must monitor:1. customer spend
2. patterns of spend
3. time spent gambling
4. gambling behaviour indicators
5. customer-led contact
6. use of gambling management tools, and
7. account indicators.

and at paragraphs 7 and 8 of the code the need to act in a timely way once an issue has been identified in order to minimise harm. Licensees with more active customers will need comprehensive systems, which will inevitably include a mix of automated and manual processes, and should draw on all available sources of data to give a comprehensive picture of the customer. These indicators for identifying harmful gambling draw on: * In-play real or near time monitoring to identify harmful behaviour as it occurs.
* Monitoring of customer contacts with the Licensee.
 |
| **4C**  | The right information can mean better and quicker decisions. To meet the requirements, you will need to integrate your systems so that staff have a more complete picture of the customer’s activity, and this includes records of previous customer interactions/action taken.  |
| **4D**   | Unmonitored overnight gambling carries an increased risk. Research indicates that the highest risk customers were much more likely to gamble overnight than nonproblem gamblers. Processes must be in place to offer the same level of protection overnight as during the day, and at the weekend. Automated processes will be necessary as set out at requirement 11 in the code to reduce further harm.  |
| **4E**  | To meet this requirement, it is important that all staff receive training so that they are aware of the signs that could indicate that a customer may be experiencing harms associated with gambling. This is not an exhaustive list, but you should ensure that: * Staff are trained to identify the signs of harm and are able to refer back to documents that include the types of behaviour that may trigger customer interaction at an appropriate moment.
* Staff should know how to escalate a situation if they are unsure or require support.
* As a minimum, staff receive training at induction as well as refresher training.
 |
| **4F**   | Licensees should aim to identify those experiencing or at risk of harm and intervene to reduce harm at the earliest opportunity. Reliance on deposit or loss thresholds that are set too high will result in failing to detect some customers who may be experiencing significant harms associated with their gambling. It is therefore imperative that threshold levels are set appropriately.  |

Historically, gambling licensees have not systematically considered customer affordability when developing their customer interaction policies. Many have used deposit or loss thresholds as a main or sole prompt for a customer interaction, but these have often been set at levels that were inappropriately high, in comparison to the average amount of money that the majority of people have available to spend on leisure activities. This has led to a number of examples of customers spending more than they could afford, and this not being identified sufficiently early, as seen in much of the Commission’s compliance and enforcement [casewor](https://www.gamblingcommission.gov.uk/news/enforcement-action)[k .](https://www.gamblingcommission.gov.uk/news-action-and-statistics/News/widespread-regulator-action-results-in-further-45m-in-penalty-packages-for-online-gambling-sector)

Open source data exists which can help licensees assess affordability for their GB customer base and improve their risk assessment for customer interactions. Thresholds should be realistic, based on average available income for your customers. This should include the [Office of National Statistics publications on](https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances) levels of household income.

In considering these thresholds, you should be aware of the difference between ‘disposable income’ and ‘discretionary income’ which refers to the amount left *after* living costs are taken into account, but it does still include many other unavoidable costs. Most people would consider it harmful if they were spending a significant proportion of their discretionary income on gambling. We expect that guidance on financial risk will be updated following further consultation on measures to address gambling harm associated with financial risks of binge gambling; clearly unaffordable gambling over time and financial vulnerability. Licensees should be considering how they manage those risks now.

**Record-keeping**

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| **4G**  | Keep meaningful records of all actions for and interactions with customers. Make these records available to staff and use them to aid decision-making. This should also take place in circumstances where an interaction has been delayed at that moment e.g. because the customer is displaying signs of agitation.  |
| **4H**     | Effective systems and processes would address the key risks we have identified in current licensee practices: * Processes that are too slow
* Processes that rely solely on manual action
* Lower levels of protection for new customers
* Insufficient knowledge of customers to understand risk of harm
* Licensees who contract with third parties failing to have sufficient processes for account monitoring
 |
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**Requirement 5**

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| **5.** Licensees must use a range of indicators relevant to their customer and the nature of the gambling facilities provided in order to identify harm or potential harm associated with gambling. These must include:  1. customer spend
2. patterns of spend
3. time spent gambling
4. gambling behaviour indicators
5. customer-led contact
6. use of gambling management tools, and
7. account indicators.
 |

**Aim 5**

To provide a minimum requirement of seven relevant categories of indicators that licensees must use to help identify gambling related harm. We consider this group of indicators to be key in understanding risk. The list is the minimum requirement and therefore not exhaustive; licensees should use their own additional indicators.

**Formal guidance 5**

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| **5A**     | Licensees must use a range of indicators relevant to their customer and the nature of the gambling facilities provided in order to identify harm or potential harm associated with gambling. These must include: a. customer spend b. patterns of spend c. time spent gambling  d. gambling behaviour indicators  e. customer-led contact f. use of gambling management tools, and  g. account indicators.  |
| **5B**  | In order to identify which indicators should be used in addition or as subcategories to  |

the minimum list. Licensees should use a range of indicators based on research, experience and shared practice. The [PWC remote gambling research](https://www.begambleaware.org/news/online-gambling-research-phase-2)[h (](https://about.gambleaware.org/media/1549/gamble-aware_remote-gambling-research_phase-2_pwc-report_august-2017-final.pdf)2017) identified some account and play indicators, but they are not a definitive list. Examples below include those that we have made requirements:

**a, b, c: Time and spend indicators:** amount of money and time as well as and frequency of deposits (including identification of binges); high amounts at set times e.g. payday; time of day (a higher percentage of overnight gamblers were found to be problem gamblers, than during other times of day), increasing length of sessions or escalation in deposit levels. Amounts spent compared with other customers, taking account of financial vulnerability.

**d: Gambling behaviour indicators:** gambling on multiple products, chasing losses, erratic betting patterns, gambling on higher risk products or unusual markets or outcomes on which the customer is unlikely to have been able to make an informed choice. People who bet in-play may place a higher number of bets in a shorter time period than people who bet in other ways, as in-play betting offers more opportunities to bet. Some studies have shown that

placing a high number of in-play bets can be an indication that a customer is at an increased risk of harm from gambling. A ‘big win’**:** high staking following a win could hide or even lead to harmful behaviour.

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| **e:**   |  **Customer-led contact:** information or hints from customers, frequent complaints about not winning, requests for bonuses following losses, or talking about the negative impacts of their gambling.  |
| **f:**   |  **Use of gambling management tools:** changing deposit limits, previous self-exclusions, frequent or repeated use of the time out facility, a refusal to use gambling management tools, or setting limits so high as to be meaningless.  |
| **g:**  |  **Account indicators:** failed deposits, multiple payment methods, pre-loaded cards and e-wallets which could indicate gambling with money the customer does not have.  |

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| **5C** The following list is provided to support licensees with implementation of this requirement. Licensees should: * Use a range of indicators relevant to your business but which must include the indicators set out in Requirement 5.
* You should use realistic thresholds and trigger points, designed to identify those experiencing harm. Not every customer who is experiencing or at risk of harm will trigger every indicator. It is important therefore that systems are not missing identification of potential harm because they are not sensitive to behaviour against individual indicators where in isolation they might be enough to indicate harm.
* Monitor all customer activity so that you are able to act early and quickly.
* Invest in systems and staff to embed the indicators of harm into the process effectively.
* Make sure your process keeps pace with any increase in demand – through growth, mergers or other internal changes.
* Train your staff to know their roles and responsibilities, and ensure they are supported and able to act promptly when they spot or are alerted to indicators of harm, particularly for any customer facing staff.
* Ensure that there is a consistent level of protection, whatever time of day there is play, as well as for new customers.
 |

**Additional information 5**

A visualisation of the categories of indicators of harm which are required, and the subcategories which should be considered is set out as follows:

**Patterns of spend**

Binges

High amounts at set

times eg payday

Escalation of

gambling

**Behaviour**

Multiple products

Choice of higher

-

risk

products

In

-

play betting

Erratic patterns

**C**

**ustomer**

**spend**

Amounts spent, taking into account

affordability

Amounts spent compared to other

consumers

**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

**Time indicators**

Amount of time

spent gambling

Time of day eg late

night

**Account indicators**

Failed deposits

Multiple payment

methods

Types of payment

Chasing losses

**Requirement 6**

**6.** In accordance with SR Code 1.1.2 licensees are responsible for ensuring compliance with the requirements. In particular, if the licensee contracts with third party business-to-business providers to offer part of the facilities for gambling, the licensee is responsible for ensuring that systems and processes are in place to monitor the activity on the account for each of the indicators in paragraph 5 (a-g) and in a timely way as set out in paragraphs 7 and 8.

**Aim 6**

The aim of this requirement is to ensure that customers are given the same level of protection even where the licensee contracts with third parties, and that action can be taken in a timely manner including automated solutions. This requirement confirms that the licensee must always have oversight of customers gambling activity, in order to effectively implement the customer interaction requirements, even if the licensee uses a third party b2b provider to offer some products.

**Formal guidance 6**

**6A** If the licensee contracts with third party business-to-business providers to offer part of the facilities for gambling, the licensee is responsible for ensuring that systems and processes are in place to monitor the activity on the account for each of the minimum indicators of harm and in a timely way e.g. licensees cannot have arrangements in place with a third party provider where they are unaware of their customers gambling activity with that provider.

**Requirement 7**

**7.** A licensee’s systems and processes for customer interaction must flag indicators of risk of harm in a timely manner for manual intervention, and feed into automated processes as required by paragraph 11.

**Aim 7**

To ensure that once licensees identify harm or potential harm that action is taken in a timely way to minimise further potential harm. The greater the harm identified the more important it is to take swift action, often this is best achieved by automated processes.

**Formal guidance 7**

|  |  |
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| **7A**  | We have seen examples through our casework of licensees correctly identifying harm but then not acting sufficiently quickly so the harm is exacerbated before they act. It is therefore important that systems and processes are developed to flag indicators of harm in a manner that allows for swift action to minimise harm. Where this action is manual, the processes must take account of the time for manual action to be taken.  |
| **7B**   | The licensee will need to include indicators of harm and aggregated indicators that trigger automated action. In many cases, automated action will be appropriate due to volume of customers and inability to be able to monitor accounts manually. Where such automated processes are applied, the licensee must manually review their operation in each individual customer’s case and the licensee must allow the customer the opportunity to contest any automated decision which affects them. For example, if a significant level of harm is identified, it will often be appropriate to place a block on further gambling until an action has taken place.  |
|   |   |

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| **Proposed guidance document** **Section C Act** |

**Section C Act**

**Requirement 8**

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

**Aim 8**

To ensure that once licensees identify harm or potential harm that action is taken in a timely way to minimise further harm. The action should be a proportionate response to address the harm, or potential harm, identified.

**Formal guidance 8**

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| **8A**  | When a Licensee is concerned that a customer may be experiencing harm, acting early and quickly is important to help stop or prevent the harm worsening. Identifying signs of harm and taking early action is a preventative measure, designed to enable a customer to gamble safely, or take action to reduce or prevent gambling where necessary.  |
| **8B**  | Licensees are required to take action in a timely manner (which in some cases will mean through automated, real-time measures), and the action needs to reflect the seriousness of the indicators of harm, including refusing service and ending the business relationship where necessary.  |
| **8C**  | 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. If a customer has been exhibiting low level indicators of harm and this progressed to higher levels of concern, it would be appropriate for there to be an escalation in the strength of response. But if there was a high level concern identified, such as immediately after registration, the strength of the action the licensee takes should match that immediately.  |
| **8D**  | Licensees interactions should have an outcome. Knowing what impact your interaction has had will help you support the customer, through the consideration of whether further action is necessary, and to keep improving your approach. To achieve this, it is vital to keep good records and make them available to staff to inform decisions.  |
| **8E**  | When contacting customers, you could consider how the customer prefers to contact you, to decide the best way to interact with them about their gambling.  |
|  **8F**  | Messages that get customers to think and make their own decisions based on the  |

information they are given can be more effective than messages that seem to be ‘nagging’. Researc[h (](https://www.frontiersin.org/articles/10.3389/fpsyg.2015.00339/full)Auer and Griffiths 2015) also shows that [personalising feedback can also improve the impact it has on customers](https://gamblingcommission-my.sharepoint.com/personal/hrhodes_gamblingcommission_gov_uk/Documents/Customer%20interaction%20legally%20privileged/8F%20%20%09Messages%20that%20get%20customers%20to%20think%20and%20make%20their%20own%20decisions%20based%20on%20the). You should test different types of messaging to see what works best. Encourage customers to think about their gambling. Their responses will help you work out the right kind of help and support to offer.

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| **8G**  | If you have difficulty making contact with a customer, depending on the level of concern it could be appropriate to suspend or restrict the account access until you are able to interact with them, or take any other action.  |
| **8H**  | A self-assessment questionnaire can help customers think about their own gambling. Their shared responses, alongside their gambling behaviour, can help both you and the customer work out the right kind of help and support they may need.  |
| **8I**  | You will need to direct some customers to information about [safer gambling](http://www.gamblingcommission.gov.uk/public-and-players/safer-gambling)[,](https://gamblingcommission-my.sharepoint.com/personal/abirleson_gamblingcommission_gov_uk/Documents/Safer%20Gambling%20-%20Gambling%20Commission) and/or suggest suitable gambling management tools. This will include signposting to sources of help and specialist support from organisations who deal with advice and treatment for gambling harms.  |
| **8J**  | You will need to interact with some customers a number of times if the earlier actions or interactions have not delivered the impact required. Your records of previous interactions with customers will help you decide whether there is a need for escalating action.  |
| **8K**  | Feedback from customers shows that they often respond better to being informed  |

about their behaviour and why, rather than being “told” what to do. But for some customers, and particularly if the behaviour continues to cause concern, there is need to take a more proactive approach. In some cases, you may need to take action for the customer, such as setting limits; preventing direct or targeted marketing or ultimately refusing service by closing their account.

**The role of staff**

**8L** You should ensure that your staff:

* understand the types of action that can be taken and how to interact appropriately. For example, whether action on behalf of a customer is necessary, and how to ramp up action in line with the number and type of indicators.
* know the type of help or support to offer when supporting customers through interaction, such as information, signposting customers to specialist support or the gambling management tools which are available. These may be the minimum required under the LCCP or the Remote Technical Standards, or tools you offer which go beyond minimum requirements.
* know the circumstances and process for refusing service to customers, such as by applying limits or closing an account.
* understand their respective responsibilities and who is designated to carry out customer interactions, if only certain staff members are authorised to interact.

**8M** Whilst training on the legislative framework is important, staff also need to be trained on the skills and techniques they need to help them carry out customer interactions, including what to do if a customer becomes distressed of there is a risk of suicide.

**Keeping records**

**8N** Good record keeping allows you to demonstrate when and why you have interacted with customers, and helps with ongoing monitoring of customers. You should:

* Keep records of all actions and interactions, including where an interaction didn’t take place or was delayed, the reasons for this, and how it was followed up.
* Make use of and record all relevant sources of information to guide and deliver effective customer actions and interactions, including your records of previous actions and interactions.

**8O** Good records should include:

* the behaviour or activity before the interaction
* how you interacted and what was said or done, for example advice or suggestions to help the customer manage their gambling, or to take a break from their gambling
* behaviour following an interaction and decision on whether further action required
* what happened next.

**Requirement 9**

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| **9.** Licensees must tailor the type of action they take based on the number and level of indicators of harm exhibited. This must include, but not be limited to, systems and processes which deliver: 1. tailored action at lower levels of indicators of harm which seeks to minimise future harm.
2. increasing action where earlier stages have not had the impact required.
3. strong or stronger action as the immediate next step in cases where that is appropriate, rather than increasing action gradually.
4. reducing or preventing marketing or the take-up of bonus offers where appropriate.
5. refusing service or ending the business relationship where necessary.

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**Aim 9**

There are two key aims of this requirement:

* To set minimum requirements for the type of action that must be included within a licensee's systems and processes to minimise harm, and
* To ensure that a licensee’s response is proportionate to the indicators of harm.

**Formal guidance 9**

**9A** Licensees must have a range of actions they will apply in response to identified harm.

This measure requires licensees to have the following suite of actions in place:

* **Early generic action:** actions at this level may apply to all customers, or where there are only very low levels of indicators of harm. It would include pop-ups, safer gambling emails promoting gambling management tools, generic safer gambling messages, and having in place backstop protections or limits while checks are being undertaken.

* **Early tailored action:** at lower levels of indicators of harm which seeks to minimise future harm. Actions at this level would include: the licensee encouraging the customer to use the gambling management tools they offer; sharing information on spend or behavior to encourage change; and enhancing their knowledge and monitoring of the customer.

* **Medium tailored action:** increasing action where earlier stages have not had the impact required. Actions at this level would include: phone calls to conduct a customer interaction; tailored encouragement for the customer to consider behaviour, and signposting to help and support, and preventing direct marketing or access to new bonus offers.

* **strong or stronger action** as the immediate next step in cases where that is appropriate, rather than increasing action gradually. Actions at this level would include: Requiring the customer to set a spend limit; providing hot transfers to help and support (so the customer can be transferred without requiring them to dial again), and using technological solutions to help support a customer e.g. by reducing the visibility of products in a tailored way; preventing the take up of offers or incentives; setting spend limits or setting time outs on behalf of a customer.

* **Very strong.** Ultimately, if the licensee’s concerns about a customer persist because the licensee’s actions have not resulted in sufficient protections in place or behaviour change by the customer, the licensee should refuse service or completely end the business relationship. In these cases, signposting to support and help will be important.

A visualisation of the types of actions at increasing strength levels is set out as follows:



**Requirement 10**

**10.** Licensees must prevent marketing and the take up of new bonus offers where strong indicators of harm, as defined within the licensee’s processes, have been identified.

**Aim 10**

It would be irresponsible for a licensee to encourage or incentivise a customerdisplaying strong indicators of harm to gamble further. The aim is to create a consistent position across licensees that where there are strong indicators of harm, the customer no longer receives any direct or targeted marketing and that the customer is prevented from taking up any new bonus offers.

**Formal guidance 10**

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| **10A** Direct and targeted marketing and the take up of new bonuses should be prevented as soon as practicable. We would expect operator processes to include the use of automation in some cases to assist with the timeliness of the response. There should be processes to extend the restriction across all product types and where relevant across the Group. **10B**  This requirement does not act in isolation. Where there are strong indicators of harm, it may be appropriate for further, separate action to be taken, which may include ceasing the business relationship.  **10C** If a customer is identified as displaying strong indicators of harm, while they are part  |
|   | way through a bonus, licensees should consider, based on all of the information they hold on the customer, whether to prevent completion of the bonus offer. This should include giving consideration to the structure of the bonus offer and whether it would be responsible to allow the customer to complete it.  |
| **10D**   | If a customer is part way through the requirements of a bonus and the operator ends the business relationship for safer gambling reasons the operator should consider whether it would be fair and reasonable for the customer to receive a proportion of the bonus based on the customer’s position at the time.  |
| **10E**   | Commercial considerations should play no part in the decision to withdraw a bonus that has been partially completed. Instead, licensees should take into account and be able to demonstrate fairness and prevention of harm.  |
| **10F**  | For the purposes of this requirement a bonus is defined as**:**any funds or equivalent provided by an operator and added to a customer’s account from which the customer can place wagers, including deposit matching funds for wagering at the customer’s discretion, free spins on specific games, and free bets for sports betting*.* Promotions which are not caught by the definition of a bonus, such as those that increase the odds a customer is paid out at, are not in scope for this requirement. One such example is ‘best odds guaranteed’. For the avoidance of doubt, such promotions must be widely available and not targeted. All targeted marketing is within scope of this requirement.  |
| **10G**   | This requirement does not apply immediately to all non-monetary bonuses. However, licensees should consider whether there is a need to also prevent the take-up of nonmonetary bonuses, and these should only be continued in circumstances where the practice does not increase the risk of harm for the consumer. |
| **10H**  | Licenseesare required to have fair and transparent terms and practices (Licence Condition 7.1.1 of the LCCP). They should therefore consider the circumstances where they would prevent a customer from completing a bonus for regulatory reasons and how to ensure transparency through terms and conditions, notifications to customers and other practices.  |

**Requirement 11**

**11**  Licensees must ensure that strong indicators of harm, as defined within the licensee’s processes, are acted on in a timely manner by implementing automated processes. Where such automated processes are applied, the licensee must manually review their operation in each individual customer’s case and the licensee must allow the customer the opportunity to contest any automated decision which affects them.

**Aim 11**

To ensure that immediate, automated action is taken to minimise harm where strong indicators of harm are identified.

**Formal guidance 11**

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| **11A**  | To ensure a timely response to identification of significant harm there will be a need for licensees to have automated processes in place. For example, if a significant level of harm is identified, a block on further gambling may be necessary until an action or actions have taken place that manages the risk of harm, or a maximum deposit limit should be imposed.  |
| **11B**   | Where such automated processes are applied, the licensee must manually review their operation in each individual customer’s case and the licensee must allow the customer the opportunity to contest any automated decision which affects them. This requirement is consistent with data protection requirements.  |
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| **Proposed guidance document** **Section D Evaluate** |

**Section D Evaluate**

**Requirement 12**

**12.** Licensees must implement processes to understand the impact of individual interactions and actions on a customer’s behaviour, the continued risk of harm and therefore whether and, if so, what further action is needed.

**Aim 12**

The aim is that Licensees evaluate the impact of their interventions to determine whether further action is needed to minimise harm, and that the further action is delivered in a timely and effective manner.

**Formal guidance 12**

**12A**  This requirement means building in evaluation of the impact that the licensee’s action, has delivered. In this context, by impact we mean a change in the customer’s gambling activity which could be attributed to the interaction. Licensees must follow up interactions with monitoring of changes in play data including number of products used, spend, deposit patterns and more nuanced play patterns (such as chasing losses, increasing spin speeds etc.)

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| **12B**  | Not every customer who receives an interaction will require active follow up, but many will. In these cases, follow up activity should continue to be proportionate to the severity or extent of the harm being displayed. If the interaction so far has not had an impact, there is a need to increase the strength of action taken next. |
| **12C**   | Understanding the impact of the action on the customer includes being able to look at and compare: * the indicators of harm and behaviour before the action
* whether the chosen action was customer-led or operator-led
* how you acted and what was communicated to the customer
* the change in indicators of harm and behaviour following the action.
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| **12D**  | Some ways to work out that impact include:  |

* If your action was to set a limit on behalf of the customer, did the limit have the desired impact? Are there continued indicators of harm, and is further action needed?
* If your interaction was a call to action for the customer e.g. encouraging the use of gambling management tools, did the customer start using those tools in a manner that prevents or reduces harm? If not, is it necessary to set a limit on behalf of the customer?
* Was there a positive change in behaviour? Did the customer’s gambling change after the interaction?
* Are you content that protections are in place for customers that you are aware are in a vulnerable situation?
* Is there a need for further or follow up action?

**Requirement 13**

**13.** Licensees must take all reasonable steps to evaluate the effectiveness of their overall approach, for example by trialling and measuring impact, and be able to demonstrate to the Commission the outcomes of their evaluation.

**Aim 13**

To provide assurance that the Licensees customer interaction systems and processes are effective.

**Formal guidance 13**

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| **13A**  | Licensees must assess the overall effectiveness of their approach by bringing together information about the impact of interaction for individual customers. This should include quality assuring individual customer interactions by spotchecking records for those interactions - including chat records, emails and records of changes in behaviour. As well as checking that customers are getting the right support, this can also identify staff development needs and highlight good practice that you can share across your business and across the industry. Licensees should also trial different approaches to customer interaction to understand what works best, and what works best for different sections of their customer base.  |
| **13B**  | Whilst tracking of play data is the minimum expected standard for evaluation of customer interaction, good practice is that licensees follow-up a sample of customers on an on-going basis to understand changes in problem gambling status based on problem gambling screens**[[2]](#footnote-3)**. Where possible, licensees should also gain more qualitative feedback on the quality and effectiveness of their interactions to aid continuous development.  |
| **13C**  | Licensees will need to keep effective records to meet this requirement. Records of interactions provide useful evidence of what types of indicators, methods of interacting and options for support and action work well for customers. This helps to inform the evaluation of the effectiveness of your overall approach to customer interaction. Good evaluation helps you to understand which aspects of your approach are the most effective at identifying the right customers, and the types of tools or support that work well to help customers manage their gambling in a way that works  |

for them. Reduction of indicators of harm following action is the key measure. The following measures could also help to work out whether your approach is working well:

* Gambling management tools – increased take up and more customers sticking within their limits.
* Customer retention.
* Reduction in complaints.

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| **13D**  | The licensee is required to submitregulatory return[s.](https://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/General-compliance/What-you-need-to-tell-us/Regulatory-returns.aspx) We have clarified the definitions in [regulatory returns to offer guidance](https://www.gamblingcommission.gov.uk/guidance/regulatory-returns-guidance/rr-guidance-how-to-calculate-your-gross-gambling-yield-ggy) on what should be included in a customer interaction (incident) log and make clearer what should be recorded. Your log should include as a minimum: * the identity or other identifier of the customer involved
* the behaviour or activity that prompted the interaction
* the action taken, advice or support given
* the outcome of the interaction.
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| **13E**  | Licensees should have a process in place to ensure that industry learning (including public statements from the Gambling Commission casework), research and industry best practice is reviewed and implemented into police and procedures where appropriate. Licensees should be able to demonstrate how they keep up to date and how they implement any learning into policies and procedures.  |

**The role of staff**

**13F** Your staff have an important role to play to understand whether your approach works, and as a minimum, you should:

* ensure that staff make records of all actions and customer interactions and use them to aid decision making. Such records should be used for evaluation purposes, for example dip sampling for quality assurance purposes, to assess whether a customer changed their behaviour as the result of an interaction.
* train staff to recognise when follow-up activity to an interaction is required.
* ensure that staff use customer interaction records as a decision-making tool.
* ensure that staff are properly supported in carrying out effective interventions.

**Requirement 14**

**14.** Licensees must take account of problem gambling rates for the relevant gambling activity as published by the Commission, in order to check whether the number of customer interactions is, at a minimum, in line with this level. For the avoidance of doubt, this provision is not intended to mandate the outcome of those customer interactions.

**2** [Problem gambling rates for the relevant gambling activities](https://www.gamblingcommission.gov.uk/licensees-and-businesses/page/the-importance-of-interacting-with-customers#problem%20gambling%20rates) are available on our website.

**Aim 14**

Customer interaction is designed to identify customers at risk of harm. If the licensee’s systems do not identify numbers of customers at least in line with the problem gambling rates for the relevant activity, those systems are likely to be failing to identify the right proportion of customers. This requirement provides a backstop protection – to ensure that customer interaction takes place as a minimum for the proportion of the customer base as the problem gambling rate for the gambling activity (or activities).

**Formal guidance 14**

**14A** Systems and processes must be designed to as a minimum undertake customer interactions with at least the same proportion of their customer base as the problem gambling rate for the gambling activity or activities they offer. Because licensees should be identifying people at risk of harm the proportion of customers who receive a customer interaction should be greater than the problem gambling rate. Operators must ensure that they are on track to meet the minimum levels of customer interactions over an annual period, and to do so should assess progress monthly.

**14B** The Commission considers that the current problem gambling rates relevant for this provision are the problem gambling rates from the [2018 Health Survey England,](https://digital.nhs.uk/data-and-information/publications/statistical/health-survey-for-england/2018/health-survey-for-england-2018-supplementary-analysis-on-gambling) and specifically the problem gambling rates for the individual activities. We consider this to be appropriate for all licensees, although the survey is based in England. Therefore the rates for each activity are:

* Online gambling on slots, casino or bingo – 8.5% of customers
* Online betting with a bookmaker – 3.7% of customers
* Other lotteries – 1.3% of customers

We will update the guidance over time where we consider it necessary to reflect recent problem gambling prevalence statistics.

**14C** Operators who offer more than one product or activity will need to work out their overall problem gambling rate to check they are compliant with this requirement. This should be based on the proportions of Gross Gambling Yield (GGY) that they generate for each activity.For example, casino games have a higher problem gambling rate. Where a licensee generates more GGY from casino games than from betting, the overall problem gambling rate for this requirement should be proportionate to the GGY from each activity.

**Proposed guidance document – consultation 2022**

1. In this respect, SR Code Provision 3.4.3 is similar to SR Code Provision 3.4.1, which previously applied to remote operators. The main guidance issued under SR Code Provision 3.4.1 was in effect from October 2019 to 11 September 2022, and additional guidance was in effect from 12 May 2020 and 11 September 2022. Neither of these pieces of guidance are in effect any longer and operators are not required to take them into account. [↑](#footnote-ref-2)
2. More detail on widely used screens (including those used by the Commission) is available here:

[Problem gambling screens - Gambling Commission](https://www.gamblingcommission.gov.uk/statistics-and-research/publication/problem-gambling-screens#:~:text=The%20most%20widely%20used%20measure%20of%20problem%20gambling,%28DSM-IV%29%20and%20the%20Problem%20Gambling%20Severity%20Index%20%28PGSI%29.)

 [↑](#footnote-ref-3)