

Proposed changes to licence conditions and codes of practice linked to the fair and open licensing objective

Consultation response form

1.1 This template is provided for responses to the Gambling Commission’s consultation on *Proposed changes to licence conditions and codes of practice linked to the fair and open licensing objective*. Please use this template if possible.

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

1.3 All responses should be sent by email to [consultation@gamblingcommission.gov.uk](mailto:consultation@gamblingcommission.gov.uk) by**5pm on Sunday 22 April 2018**.

Alternatively, responses can be sent by post to:

Proposals linked to Fair and open consultation

Gambling Commission

Victoria Square House

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BirminghamB2 4BP

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| **Name:** | **Alison Mather** |  |
| **Organisation:** | **Quaker Action on Alcohol and Drugs** |  |
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| * 1. If you are responding on behalf of an organisation, please indicate which type of organisation:  |  |  |  |  | | --- | --- | --- | --- | | Industry body |  | Regulatory body |  | | Government body |  | Charity |  | | Local authority |  | Help group |  | | Academic institution |  | Faith group | x | | Other (please specify) |  | | |   **1.5** If you are responding as an individual, please indicate your own interest:   |  | | --- | |  | | | |
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**Section 2.1 – 2.10 of the consultation:**

Compliance with the UK advertising codes

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| **Q1.**What are your views on elevating compliance with the UK Advertising Codes from an Ordinary code provision to a Social responsibility code provision? |
| We welcome and support the proposed elevation of compliance to a Social Responsibility code provision. As stated in the consultation document, and evidenced in recent action taken in relation to irresponsible practice by some industry operators, compliance with the Ordinary Code provision has been found to be inconsistent and has resulted in public perceptions of the industry as fair and trustworthy falling to an all time low. We note that a key principle underpinning the Advertising Codes, and one of the Commission’s specific objectives, is to protect children and young people and vulnerable customers.  We have a strong and ongoing concern about the impact of problem gambling on individual gamblers, their families and their communities. In our submission to the DCMS consultation on gaming machines and social responsibility measures (January 2018), we highlighted two Australian research studies which provided evidence of risks associated with gambling advertising. In the first[[1]](#footnote-2), young men confirmed that inducements offered by the industry were effective strategies in getting themselves (and other young men) to bet on sports and stimulated some individuals to sign up with more than one betting provider. The second[[2]](#footnote-3), found that many children indicated a key factor influencing their consumption intentions towards sports betting was the marketing and advertising of gambling products (and in particular sports betting). These findings challenge Per Binde’s survey of evidence (GambleAware, 2014), which found that the impact was likely to be ‘*rather small’*.  It is hoped that through the proposed strengthening of compliance requirements, standards will be raised, awareness of risk will be improved, and the importance of the Advertising Codes will be reinforced. |

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| **Q2.** Are there any particular aspects of the UK Advertising Codes which would benefit from additional advice or guidance? |
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**Section 2.11 – 2.14 of the consultation:**

Marketing of offers

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| **Q3.** What are your views on the re-drafting of SR code provision 5.1.7? |
| We support the simplification and clarification provided through the proposed redrafting of SR code provision 5.1.7. We also agree with the Commission’s proposal to retain this as a stand-alone licence code provision to highlight its expectations in this area. In addition, we suggest that the Commission might consider making specific reference to CAP’s guidance on marketing of free bets and bonuses within the code provision. |

**Section 2.15 – 2.22 of the consultation:**

Electronic marketing consent

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| **Q4.** What are your views on the proposal to introduce a new SR code provision regarding direct e-marketing consent? |
| We welcome the introduction of a new SR code provision relating to direct e-marketing consent. We would like to suggest that this could be further strengthened by explicit reference to the need for such information to be prominent and transparent (as for the marketing of offers in 5.1.7 above), and for it to be written in a way that can be easily understood. Our response to Question 17 (Readability standard) is relevant here and for all forms of direct marketing (see below). |

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| **Q5.**What are your views on broadening the proposed provision beyond direct e-marketing to include all forms of direct marketing? |
| We support the broadening of the proposed provision beyond direct e-marketing to include all forms of direct marketing. Research has confirmed that problem gamblers report that gambling advertisements can remind them about gambling, trigger gambling urges, provide inducements to gamble, further increase gambling involvement and undermine attempts to moderate their gambling.[[3]](#footnote-4) Furthermore, adolescents and children are aware of, and can recall, specific slogans and jingles and may feel they are being groomed to gamble[[4]](#footnote-5) , whilst advertisements can increase adolescents' desire to experiment with gambling and prompt a gambling session[[5]](#footnote-6).  This suggests a strong case for minimising the exposure to direct and targeted marketing by those most vulnerable to developing problem gambling, particularly given the increasing sophistication of marketing strategies and techniques in an evolving gambling landscape. One example of this is William Hill’s Plus card and app and ‘Omniwallet’:  *‘As their account is linked to a mobile phone number, we can also send offers to shop customers through push notifications for the first time...’[[6]](#footnote-7)* |

**Section 2.15 – 2.22 of the consultation:**

Responsibility for third parties

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| **Q6.**What are your views on the proposed amendments to SR code provisions 1.1.2 and 1.1.3 (Responsibility for third parties) which reduce duplication between provisions and further clarify our position that operators are responsible for third parties with whom they contract, such as affiliates? |
| We support these proposed amendments. |

**Section 3.1 – 3.16 of the consultation:**

Unfair terms

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| **Q7.**Do you have any comments on the inclusion of consumer notices to licence condition 7.1.1? |
| We support the inclusion of consumer notices to licence condition 7.1.1 and welcome the explicit expectation, set out in the condition, that operators comply with the law and do not just assure themselves that they have done so. |

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| **Q8.** What are your views on the proposal to include a requirement to ensure compliance with the Consumer Protection from Unfair Trading Regulations 2008, at all stages of the consumer journey? |
| We welcome the addition of compliance with the CPRs to this licence condition, given the breadth of their scope in relation to all stages of the consumer’s journey. We are concerned that young and vulnerable customers, including those with literacy, numeracy, substance misuse and/or mental health problems, can find it particularly difficult to make clear decisions about the products they purchase. The further strengthening of requirements regarding fairness and transparency will help to protect these customers in particular. |

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| **Q9.**What more could be done to ensure licensees’ terms and practices are not unfair and do not mislead? Please give examples. |
| Given the Commission’s stated concern that ‘*unfair terms and practices are an industry-wide issue’*, we would like to suggest that an independent evaluation of operators’ terms and practices is undertaken to assess the impact of changes to this licence condition following implementation, including a qualitative study involving customers and treatment seekers. |

**Section 4.1 – 4.20 of the consultation:**

Complaints and disputes

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| **Q10.**Do the changes to SR code provision 6.1.1 make it clear that our focus is on complaints and disputes being handled in a fair, open, transparent, accessible and timely manner, in line with the licensing objectives? If not, how could we improve this? |
| We agree that the proposed changes to SR code provision 6.1.1 provides greater clarity of the GC’s focus. |

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| **Q11.**Do the changes to SR code provision 6.1.1 make the general requirements for reporting information to the Commission easier to understand and follow? If not, what would improve this? |
| We agree that the proposed changes to SR code provision 6.1.1 make the general requirements for reporting information to the Commission clearer and, therefore, should make them easier to understand and follow. |

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| **Q12.**Please provide any feedback on the new requirement to have regard to the Commission’s advice/guidance when designing complaints policies and procedures. Can you see any problems with this approach? |
| The advice/guidance provides clear and detailed information which should support the industry’s development of its complaints policies and procedures, with the flexibility to design these according to each business’ needs and context.  As stand-alone guidance, we hope that it will be the basis for staff training and staff induction across the industry, to ensure that all staff know what is required, what their respective responsibilities are within the process, and feel confident to carry this out.  We also hope that the Commission will consider undertaking a follow up study of its 2017 review to assess the impact of the advice/guidance once it has been implemented. |

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| **Q13.**Please provide any feedback on the proposals to introduce time limits for complaints and disputes handling, and a requirement to provide a ‘deadlock letter’ as part of the advice. Do you agree with the proposed approach? If not, please explain why? |
| We think that the introduction of time limits and suggested provision of ‘deadlock letters’ will help to strengthen complaints and disputes handling processes by making them more robust and transparent. Unexplained delays and/or extended periods of waiting for complaints to be resolved are sources of additional stress and frustration for customers, particularly for those who are most vulnerable.  We think that it is not unreasonable for the industry to work within similar timeframes to that of other regulated industries where such limits and approaches have been implemented. |

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| **Q14.**Do you have any further comments or feedback on the proposed changes to SR code 6.1.1? What would be the impact of such proposals in terms of resource or cost? |
| In order to ensure staff are familiar with, and confident to implement, new or amended dispute and complaints processes, operators will incur the cost of inducting and training staff in this area, including periodic refresher training as needed. However, a more robust and transparent process, with customers provided with clearer and more straightforward information, and staff handling complaints more efficiently, may help to contribute to a lowering of costs relating to ongoing disputes and court action. |

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| **Q15.**Do you have any further comments or feedback on the content of the proposed advice? What would be the impact of the proposals in terms of resource or cost? |
| The consultation confirms that the Commission’s 2017 review found that few policies it examined explained the independent role of ADRs. The Commission may wish to consider expanding paragraph 5.1 of the proposed advice to include the provision of explicit information regarding ADRs’ role and purpose. Whilst this may be implied in the guidance, we feel that making this explicit would improve customers’ understanding of the process and help to manage their expectations. |

**Section 4.21 – 4.25 of the consultation:**

Future changes – improving the ADR processes

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| **Q16.**Do you have any views on the outlined content of the future framework of standards for ADR providers, or our direction of travel in this area? |
| The content of the future framework of standards for ADR providers, outlined in the consultation, indicate that the framework will support providers to improve the quality and consistency of their services. It will be important for this stage of the customer’s complaint process, if needed, to reflect the objectives of the relevant changes to LCCP, and that customers receive the same standard of service throughout.  We particularly welcome the reference to the importance of taking into account the needs of vulnerable customers, and hope that any future readability standard will apply to documentation used by ADR providers in their contact with customers they support. |

**Section 3.32 – 3.34 of the consultation:**

General – ‘readability’ of consumer information

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| **Q17.**What are your views on introducing a required readability standard for customer facing documents in the future? What might such a standard look like? What would the impact of such a requirement be for licensees or for customers? |
| We strongly support the introduction of a required readability standard for customer facing documents The consultation highlights current levels of poor literacy in England (paragraph 5.2), and low levels of literacy and numeracy as indicators of vulnerability, together with other factors including mental ill health (paragraph 5.3).  We suggest that the Commission’s stated objectives of openness, fairness and transparency cannot help but be undermined if relevant, proposed changes were to be implemented without careful consideration of how future content is designed and worded.  We are pleased to note that the advice/guidance relating to complaints procedures includes the suggestion that the needs of customers for whom English is second language and/or those who may find documents difficult to understand, should be taken into account. However, we are concerned that a requirement for documents to be written in ‘clear, plain English’ or to be ‘clear and transparent’ may not be sufficient to ensure that the needs of vulnerable customers with poor literacy skills would be fully addressed.  A readability standard could provide specific indicators to help the industry improve the quality of their materials, and thereby help protect customers from making poor decisions regarding their gambling behaviour.  As the consultation confirms, there are tools available for businesses to use when developing customer facing documents which could help to inform the content of such a standard, combined with consultation with professionals with direct experience of working on literacy/numeracy issues. |

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

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

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

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

1. Deans EG, Thomas SL, Derevensky J, Daube M, ‘*The influence of marketing on the sports betting attitudes and consumption behaviours of young men: implications for harm reduction and prevention strategies’*, 2017 [↑](#footnote-ref-2)
2. Pitt H, Thomas SL, Bestman A, Daube M, Derevensky J., *Factors that influence children's gambling attitudes and consumption intentions: lessons for gambling harm prevention research, policies and advocacy strategies,* 2017 [↑](#footnote-ref-3)
3. Hing, Cherney et al., 2014 [↑](#footnote-ref-4)
4. Amey, 2001; Korn, Hurson et al., 2005; Korn, Reynolds et al., 2005 [↑](#footnote-ref-5)
5. Derevensky et al., 2007; Korn, Hurson et al., 2005; Korn, Reynolds et al., 2005 [↑](#footnote-ref-6)
6. [www.williamhillplc.com/media/11914/wmh-half-year-results-statement-020817.pdf](http://www.williamhillplc.com/media/11914/wmh-half-year-results-statement-020817.pdf) [↑](#footnote-ref-7)