

HM Area Coroner Mr Ivan Cartwright
H.M. Coroner's Office (Leicester City & South Leicestershire)
Town Hall
Town Hall Square
Leicester
LE1 9BG

6 September 2023

Dear Coroner Cartwright

Response to Regulation 28 Report to Prevent Deaths – Luke Anthony Ashton

1. This letter is sent on behalf of Mr Andrew Rhodes, Chief Executive Officer of the Gambling Commission (“the Commission”) in response to the Regulation 28 Report to Prevent Future Deaths (“the Report”) of 12 July 2023.
2. Mr Rhodes and the Commission wish to extend our sincere condolences and deepest sympathies to Mr Ashton’s family following his tragic death. We are committed to protecting people from gambling harm and welcome the views of the Coroner as an opportunity to reflect upon the areas identified as concerns and to ensure appropriate action is taken to prevent future deaths.
3. The Report arises from the inquest into the death of Luke Anthony Ashton (“Mr Ashton”) that concluded on 29 June 2023. The Coroner concluded that the evidence showed that Mr Ashton was suffering from a gambling disorder which contributed to his decision to take his own life and that opportunities were missed by the operator, Betfair, which may have possibly changed the outcome for Mr Ashton. The Report identifies three matters of concern, namely:
 - (i) the inadequacy of player protection tools as a means to protect a person such as Mr Ashton who was a problem gambler;
 - (ii) the failure of the algorithm devised and operated by Betfair to identify Mr Ashton as a problem gambler; and
 - (iii) Betfair’s understanding of its responsibilities with regard to gambling customers.

4. I hope the contents of this response will assist the Coroner in understanding the action which has been taken by the Commission together with identifying future work intended to strengthen regulation to protect customers from gambling harm. This response is structured as follows:
 - a) Background: An overview of the system of gambling regulation and the role of the Commission.
 - b) The Commission's ongoing work to strengthen regulation to protect consumers from gambling harm.
 - c) The Commission's response to the specific matters of concern identified in the Report.
 - d) Annex detailing additional information about the Commission's role in reducing gambling harm.

A. Background: Overview of the system of gambling regulation and the role of the Commission

5. The Commission was set up in 2007 to regulate commercial gambling in Great Britain in partnership with licensing authorities. It is an executive non-departmental body sponsored by the Department for Culture, Media and Sport ("DCMS").
6. The primary legislation governing gambling (excluding the National Lottery) is the Gambling Act 2005 (as amended) ("the Act"). It provides for the licensing of gambling operators and individuals working within the gambling industry.
7. Some of the Commission's principal functions under the Act include:
 - a. To license gambling operators by way of operating licences under Part 5 of the Act. Consideration of an application for an operating licence involves detailed analysis of the applicant's suitability to carry on the licensed activities, its integrity, competence, financial circumstances and so on. Key to this is its systems for protecting vulnerable people and ability to meet the requirements of the Licence Conditions and Codes of Practice ("LCCP").
 - b. The preparation, publication, and review, of a statement that sets out the principles which will govern the exercise of its functions, and, in particular, explains how such principles will assist the Commission in its pursuit of the licensing objectives. The Commission publishes a number of key documents that set out the responsibilities of those that hold

operating or personal licences and our approach in regulating the gambling sector. The suite of documents includes, for example ‘Statement of Principles for Licensing and Regulation’¹, ‘Licensing, Compliance and Enforcement Policy Statement’², ‘Indicative Sanctions Guidance’³ and ‘Statement of Principles for determining Financial Penalties’⁴.

- c. Setting the rules with which licence holders must comply. The majority of these rules take the form of licence conditions and are set out in the LCCP⁵.
 - d. To undertake activities for the purpose of assessing compliance with the LCCP, provisions of the Act, or whether an offence has been committed under the Act.
 - e. To take regulatory action against an operating or personal licence holder by way of exercising its powers to commence a formal investigation, to commence a licence review under section 116, to issue a formal warning, to attach, remove or amend a licence condition, to suspend or revoke a licence, and to impose a financial penalty.
 - f. The power to investigate whether an offence has been committed under the Act, and to pursue criminal proceedings if this is the case.
8. In exercising the statutory functions set out above, the Commission must aim (a) to pursue and, wherever appropriate have regard to, the licensing objectives and (b) to permit gambling in so far as it thinks it reasonably consistent with pursuit of the licensing objectives (section 22 of the Act). The licensing objectives, set out in section 1 of the Act, are:
- “a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime,
 - b) ensuring that gambling is conducted in a fair and open way; and
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling.”

¹ [Gambling Commission Statement of principles for licensing and regulation](#)

² [Licensing, compliance and enforcement under the Gambling Act 2005 \(gamblingcommission.gov.uk\)](#)

³ [Indicative sanctions guidance - June 2017 \(ctfassets.net\)](#)

⁴ [Statement of principles for determining financial penalties \(gamblingcommission.gov.uk\)](#)

⁵ [Licence Conditions and Codes of Practice \(gamblingcommission.gov.uk\)](#)

9. As to section 1(c), “vulnerable” is not defined in the Act but the Commission has set out a non-exhaustive definition in the Statement of Principles for Licensing and Regulation, which it is required to publish under section 3 of the Act, which states at paragraph 5.26:

“With regard to ‘vulnerable persons’, whilst the following list is not exhaustive, the Commission considers that this group will include:

- people who spend more money and/or time gambling than they want to
- people who gamble beyond their means
- people who may not be able to make informed or balanced decisions about gambling, for example because of health problems, learning disability, or substance misuse relating to alcohol or drugs.”

10. The Commission’s view is that persons who are addicted to gambling or suffering from a gambling disorder would be ‘vulnerable persons’.

11. The Commission has further set out in corporate documents, such as our [Strategy plan: 2018 to 2021](#)⁶, what we mean by vulnerability, namely ‘A customer in a vulnerable situation is somebody who, due to their personal circumstances, is especially susceptible to detriment, particularly where a business is not acting with appropriate levels of care.’

12. In July 2023 the Commission published a [Vulnerability Statement](#) setting out our approach to identifying, supporting and protecting consumers who are in vulnerable situations⁷. It brings together information from existing Commission policy and guidance documents to help provide consolidated information about how we take account of customer vulnerability in our work. It is intended to help gambling businesses, gambling consumers, the general public and other regulators and organisations understand our approach and expectations. It references the Commission’s explanation of what we mean when we discuss vulnerability, provides information about our approach to building understanding of factors which may make a consumer more vulnerable to gambling harm and explains how we set requirements for gambling businesses to support, identify and protect vulnerable consumers. We will continue to assess the insights and evidence concerning consumer vulnerability and may make changes to our approach over time. Further information can be found here: [What do we mean by vulnerability? \(gamblingcommission.gov.uk\)](#).

⁶ [Strategy plan: 2018 to 2021 \(gamblingcommission.gov.uk\)](#)

⁷ [Vulnerability statement \(gamblingcommission.gov.uk\)](#)

Social responsibility in the LCCP

13. Pursuant to its duties and powers under the Act, the Commission sets out its requirements and expectations of operators in its LCCP which set licence conditions, code of practice (“Code”) and social responsibility code provisions (“SR Code”).
14. In the LCCP the Commission sets out important duties on operating licence holders, including duties in relation to the protection of vulnerable persons. For example, the LCCP includes duties in respect of advertising of gambling, customer interaction when indicators of harm are present, and the provision of facilities for customers to self-exclude from gambling. This document is kept under review and updated periodically. I address below those aspects of the LCCP which specifically relate to the concerns identified in the Report.
15. The Commission also publishes a variety of guidance, advice and technical standards. This includes guidance, for example, aimed at helping potential applicants understand what licence they might require, helping licensees comply with their regulatory obligations (such as the customer interaction guidance mentioned later in this response), and reactive guidance aimed at helping the sector navigate situations such as the Covid-19 pandemic⁸. In some instances, operators are required to take into account guidance published by the Commission (for example, SR Code 3.4.1 and 3.4.3. require operators to take into account the Commission’s guidance on customer interaction, which I explain in further detail below).
16. Failure to comply with any of the requirements of the LCCP, including the SR Code, can lead to the commencement of a section 116 licence review, which may culminate in the imposition of a formal sanction which might include licence revocation. In addition, it is an offence under section 33 of the Act to provide facilities for gambling other than in accordance with the terms and conditions of a licence, meaning that a failure to comply with the LCCP can have grave consequences for operators and associated individuals.

The Commission’s approach to compliance and enforcement under the Act

17. The Commission regulates in the region of 2500 licensees offering land based and online products. It receives significant amounts of data from licensees every year and has access to other sources of data such as complaints, media coverage and intelligence reports. The Commission operates a risk-based approach to assessing licensees in accordance with the

⁸ [Customer interaction – Additional formal guidance for remote operators during Covid-19 outbreak \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk/customer-interaction-additional-formal-guidance-remote-operators-during-covid-19-outbreak)

approach set out in the Statement of Principles for Licensing and Regulation and Licensing and Compliance and Enforcement Policy Statement.

18. The Commission's approach to compliance has to balance maintaining and improving standards across the sector, while retaining sufficient agility and flexibility to respond to new issues, concerns and intelligence.
19. The Commission operates a 3-year cycle of assessment for the largest operators where there are no emerging concerns about their compliance. The assessment takes the form of a compliance assessment undertaken by the Commission⁹. Where there are concerns about compliance, the Commission will engage more frequently and, where needed, at pace. The Commission operates a programme to triage data received about licensees, and to identify at the earliest opportunity any factors of risk that may indicate compliance engagement is required.
20. Compliance engagement ranges from conducting full in-depth assessments of both land based and online licensees, to conducting more focussed assessments of specific areas of a business including desktop reviews of websites, app-based products and a review of online promotions and social media presence. The Commission also conducts thematic projects and raising standards educational activity for licensees, which can consist of premises visits, reviews of policy documents, interviews with a licensees' key staff, observation of practices, review of customer records and assessment of internal controls. The Commission also conducts educational activities such as creating podcasts, conducting workshops and offering access to an account manager for compliance contact.
21. Between July 2022 and July 2023, the Commission's compliance team conducted 117 assessments of operating licences, 136 Premises Assessments and 101 website reviews. This activity assessed large, medium and some smaller operators offering land based and online products.
22. When an assessment has been carried out, the licensee will be notified of the result and any further action that should be taken, as soon as possible. If serious failings are revealed during or because of a compliance assessment, then the Commission may decide that it is

⁹ Further information is available here: <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/compliance-assessments>

appropriate to place the licensee into Special Measures or consider taking formal enforcement action.

23. The objective of the Special Measures regime is to raise standards immediately through strict supervision by the Commission of improvements being made by the licensee to remedy failings. As is set out in the Licensing, Compliance and Enforcement Policy Statement, the effect of Special Measures is that the licensee will be invited to submit to and agree with the Commission an urgent action plan to rectify the regulatory failings identified. This may include divestment of any financial benefits derived from the failings. If the licensee fails to agree an action plan, or fails to implement the agreed action plan, the Commission may proceed to review the licence or commence a regulatory investigation which may lead to enforcement action such as a penalty or revocation of the licence. Compliance with the action plan does not prevent the Commission from reviewing the licence and taking enforcement action in any event, but such compliance with the action plan would be treated as a mitigating factor. Where the licensee has fully complied with the action plan, it may request release from Special Measures. The Commission will consider such a request following a further compliance assessment.
24. In cases where compliance action, be that Special Measures or some other action, has not led to the desired change in a licensee or in instances where further possible failings are brought to the attention of the Commission, the Commission may escalate this and commence formal enforcement action.
25. Under the Act, the Commission has the power to commence formal regulatory enforcement action against licensees (both operating licensees and personal licensees) to review their licences and the operation of licence conditions. The powers allow the Commission to issue a formal warning, to attach, remove or amend a licence condition, to suspend or revoke a licence, and to impose a financial penalty. The Commission will review licences under section 116 where it considers it an effective and proportionate use of its enforcement powers.
26. In deciding whether to exercise the Commission's regulatory powers, the Commission has regard to the risk to the licensing objectives and applies the principle of proportionality. This includes taking into consideration the factors set out in our Enforcement Policy, for example mitigating and aggravating factors in relation to the seriousness of the matters under consideration.

27. Where appropriate, in certain specific cases, the Commission may seek to fulfil its statutory obligations and pursue the licensing objectives by means that stop short of a formal licence review under section 116 of the Act. One means of achieving this is by way of regulatory settlement. Regulatory settlements are only considered in certain circumstances, for example where the licensee is open and transparent, able to demonstrate that they have insight into the apparent failings, prepared to divest itself of any gross gambling yield or costs savings which have accrued as a result of the failings and prepared to follow advice and implement procedures to ensure there is no repetition. The purpose of settlements is not for licensees to avoid responsibility for breaches – instead, they are a more efficient way to resolve matters when the Commission considers an equivalent regulatory outcome can be achieved.

28. Since 1 April 2019 the Commission has concluded over 350 enforcement cases with operators paying over £159 million in financial penalties and regulatory settlements.

29. In addition to its compliance and enforcement work, the Commission works with a wide range of other regulators, public health bodies, the third sector and businesses to reduce gambling related harms. We have included information about this engagement, as well as other areas of work we believe may be relevant, in the Annex to this response.

B. The Commission's work to strengthen regulation to protect consumers from gambling harm

30. Before turning to the three specific concerns identified in the Report, it may be useful to outline by way of an overview the work which has been undertaken by the Commission in recent years to strength regulation specifically in the context of seeking to protect consumers from gambling harm.

31. The Commission has undertaken a significant programme of work over the last five years which spans each stage of the customer journey from making a decision to gamble including strengthening age and verification controls at registration, to introducing new requirements to limit intensity of online slot gambling during gambling, to stricter controls on gambling marketing before during and after gambling, all with the objective of reducing gambling harm. This approach of ensuring protections are in place at each stage of the customer journey is key to reducing the risk of harm - it is important that games and products are safe, that marketing is undertaken responsibly, that tools are available to support customers to manage

their gambling and that operators are able to identify customers at risk of harm and that interventions/interactions with customers are effective. During this period, we have introduced the following key controls, the last three of which were introduced after April 2021:

- a. In 2018, stricter LCCP requirements were introduced around marketing of offers, ensuring we have powers to take action where operators breach the UK Advertising Codes, specifying that operators must not send direct e-marketing to consumers without their informed and specific consent, and that operators must ensure that their terms and conditions are not unfair (as defined in the Consumer Rights Act 2015). Our collaborative work with the Competition and Markets Authority (“CMA”) and the Advertising Standards Authority (“ASA”) on unfair terms and misleading practices, which concluded in 2018, saw major changes and improved standards in the online sector on the fairness and openness of promotional offers¹⁰.
- b. In May 2019, we strengthened age and identity verification controls. This included a new requirement that operators must complete age verification on all customers before they can deposit money and gamble or access play for-free games¹¹.
- c. In April 2020 we introduced a ban on gambling with credit cards to reduce the risk of people gambling with money they do not have, accumulating debt and experiencing financial harms. The ban was introduced in response to evidence that some gamblers with high levels of debt were using credit cards to facilitate their gambling behaviour. We published the interim evaluation of the credit card ban in November 2021 which indicated that the action is supported by consumers and has not resulted in harmful consequences¹².
- d. In October 2020, we introduced new LCCP requirements¹³ and associated guidance to reduce harms experienced by High Value Customers (known as VIPs) and, more generally, those consumers that provide disproportionate financial value to licensees¹⁴. The measures were introduced as part of the Commission’s work to strengthen consumer protection and have led to an estimated 90 percent reduction in customers signed up to such ‘VIP’ schemes.
- e. In October 2021 we introduced new rules into the Remote Gambling and Software Technical Standards (“RTS”) for online slots on game speed and banning features which increase the intensity of gaming¹⁵. In June 2023 we published an assessment of the

¹⁰ [Joint CMA and Gambling Commission letter to the gambling sector](#), April 2019

¹¹ [New age and identity verification rules - changes to the LCCP from Tuesday 7 May \(gamblingcommission.gov.uk\)](#)

¹² [Prohibition of gambling on credit cards report \(gamblingcommission.gov.uk\)](#), November 2021

¹³ Social responsibility code provision 5.1.1 – Cash and cash equivalents

¹⁴ [New rules to stamp out irresponsible ‘VIP customer’ practices \(gamblingcommission.gov.uk\)](#), September 2020

¹⁵ [Gambling Commission announces package of changes which make online games safer by design](#), February 2021

impact of these online game changes for slots products which indicated that it has resulted in reduced play intensity and that it has not resulted in harmful unintended consequences¹⁶.

- f. In October 2021, a ban on functionality which enabled reverse withdrawals was introduced to protect customers and support customer decisions to withdraw their funds from gambling¹⁷.
 - g. Further requirements on operators to identify customers at risk of harm and take action in respect of customers identified at risk of harm came into effect in September 2022 and February 2023¹⁸. The new rules are stronger and more prescriptive, including by requiring operators to monitor a specific range of indicators, as a minimum, to identify gambling harm, flag them and take action. Further information on these requirements is included in paragraphs 46 and 47 when setting out information related to Concern 1.
32. On 28 February 2023 the Commission commenced a consultation on proposed changes to certain requirements on gambling businesses aimed at improving player protection¹⁹. These are:
- a. *Reporting deaths by suicide to the Commission:* We have proposed that licensees are required notify us when they become aware that a person who has gambled with them has died by suicide, building on existing good practice. While some licensees have notified us in this way in the past, there is a risk that this is not being done consistently. As such, we are consulting on introducing a specific requirement which puts this expectation beyond doubt. The reporting of this information enables us to assess the licensee's compliance with conditions of its licence and helps to inform our ongoing consideration of policy (for example, policies regarding customer interaction, the use of gambling management tools and our knowledge of gambling across multiple operators).
 - b. *Extending the multi-operator self-exclusion scheme to additional categories of betting licensee:* Self-exclusion is an important and effective tool for people who wish to be supported to stop gambling. Nearly 400,000 consumers have used GAMSTOP, the national online self-exclusion scheme, to self-exclude themselves from all online gambling

¹⁶ [Assessment of Online Games Design changes \(gamblingcommission.gov.uk\)](#), June 2023

¹⁷ [Gambling Commission announces package of changes which make online games safer by design](#), February 2021

¹⁸ [LCCP Condition 3.4.3 - Remote customer interaction \(gamblingcommission.gov.uk\)](#)

¹⁹ [Consultation on Licence conditions and codes of practice February 2023: multi-operator self-exclusion, notification of deaths by suicide and technical update relating to payment services - The Gambling Commission - Citizen Space](#). The consultation closed 23 May 2023; We are currently analysing responses to the consultation. We expect to publish the outcome of the consultation in autumn 2023.

licensed by the Commission. Most gambling businesses offering remote betting are required to participate in an online multi-operator self-exclusion scheme known as GAMSTOP. Where a customer signs up to GAMSTOP, they will automatically be self-excluded from all online gambling offered by all operators who participate in the scheme. The Commission has recently consulted to extend the requirement to participate in the GAMSTOP scheme to all licensees that make and accept bets by telephone and email, including for example betting via social media messaging apps.

33. In addition, we are supporting the owners of multi-operator self-exclusion schemes to consider how they can improve the effectiveness of their schemes, from making it straightforward to request self-exclusion from the multiple sectors to considering how best to improve identification.
34. In April 2023, the Commission advised the Government on its review of the Gambling Act 2005²⁰. In April 2023 the Government published its white paper following the 'High Stakes: Gambling for the Digital Age', outlining a comprehensive package of new protections to help safeguard customers against gambling related harm²¹. Consistent with our advice, the proposed new measures include further protections to apply at each stage of the customer journey, which will make gambling products inherently safer but also support and empower customers to control and manage their gambling and to seek redress where things go wrong.
35. As part of this programme of work connected with the Gambling Act Review, the Commission is also seeking to consult on a significant package of measures to strengthen player protection in the context of online gambling (to include identification of financially vulnerable customers and to tackle significant unaffordable binges and significant unaffordable gambling losses over time, alongside increased protections for young adults) and restrictions on bonus offers.
36. On 26 July 2023, we issued our first consultation connected with this work, which included a series of proposed changes to our requirements on gambling businesses, through the LCCP and the RTS²²:

²⁰ [Advice to Government - Review of the Gambling Act 2005 \(gamblingcommission.gov.uk\)](#), April 2023

²¹ [High Stakes: Gambling Reform for the Digital Age \(publishing.service.gov.uk\)](#), April 2023

²² [Summer 2023 consultation on proposed changes to Licence Conditions and Codes of Practice \(LCCP\), Remote Gambling and Software Technical Standards \(RTS\), and arrangements for Regulatory Panels - The Gambling Commission - Citizen Space](#). The closing date for this consultation is 18 October 2023.

- a) *Remote gambling: financial vulnerability and financial risk.* We are currently consulting further on customer interaction and specifically how operators identify customers at risk of financial harm. This consultation focusses on financially vulnerable customers, tackling binge gambling and significant unaffordable losses over time, working with Government. While we are proposing new specific requirements on operators in relation to financial risk, we stress operators should use all of the information obtained within their overall customer interaction approach to identify risk of harm and take action to prevent gambling harm.
- b) *Improving consumer choice on direct marketing.* We want to empower customers by giving them more control over the direct gambling marketing they wish to receive. We are consulting on introducing a new LCCP requirement to provide customers with options to opt-in to the product type they are interested in and the channels through which they wish to receive marketing.
- c) *Strengthening age verification in premises:* We are also consulting on how licensees make sure they have effective age verification procedures where their premises may not be directly supervised.
- d) *Remote game design:* We are consulting on a series of changes to existing Remote Gambling and Software Technical Standards and new requirements, in order to reduce the speed and intensity on online products while making them fairer and increasing consumer understanding about game play. We also propose removing features which can speed up play to reduce the harm experienced by consumers who are gambling particularly quickly or intensely. Another proposal seeks to remove features which may mislead consumers or create dissociation from awareness of play.

37. On 26 July 2023 the Government separately launched a consultation²³ connected with the Gambling Act Review in relation to remote gambling. This consultation set out proposals for the introduction of online slot stake limits to curb harmful gambling as online slot games are deemed a higher-risk gambling product, associated with large losses, long sessions and binge play.

38. The Commission is intending to continue this programme of work with a consultation this winter on proposals relating to the role of player-centric controls, in particular the role of

²³ [Consultation on proposals for a maximum stake limit for online slots games - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/consultation-on-proposals-for-a-maximum-stake-limit-for-online-slots-games)

deposit limits and the extent to which such gambling management tools should be encouraged or mandated; and on proposals relating to ensuring that any inducements or bonus offers are offered responsibly to consumers to reduce the risk of harm.

C. The Commission's response to the specific matters of concern set out in the Report

Concern 1: The player protection tools used by Mr Ashton were and are inadequate to protect a person such as him, who was a problem gambler and with a worsening problem, specifically that such tools do not amount to any or any meaningful interaction with the gambler, or any intervention into the practices of the gambler.

Response to Concern 1 insofar as it pertains to the whole of the gambling industry

39. As part of introducing protections at each stage of the customer journey, the Commission seeks to impose requirements to ensure that a range of tools are available to customers to support customers to gamble safely. These are tools which are offered from the point of registration with an online account in order to support a customer to manage, limit or stop gambling with for a period of time.
40. The Commission requires operators to offer such gambling management tools, also known as player protection tools, through both the section of LCCP that covers the protection of children and other vulnerable individuals and our remote gambling and software technical requirements ("RTS")²⁴. These measures were all in place during the time that Mr Ashton was gambling with Betfair, and include:
- a) Self-exclusion, the facility for a customer to request that the gambling operator prevents them from gambling for at least six months and ceases all marketing activity until the customer opts back in. This is required by SRCP 3.5.3 and Ordinary Code 3.5.4 and was introduced in 2007.
 - b) Time-out, a facility for a customer to request that the gambling operator prevents them from gambling for a shorter period of time e.g., around pay day. This is required by SRCP 3.3.4 and was introduced in 2015.
 - c) Financial limit setting, a facility to assist a customer in sticking to their personal budgets for gambling with the operator. This is required by the RTS, and the requirement has been amended over time.

²⁴ [Remote gambling and software technical standards \(RTS\) \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk/remote-gambling-and-software-technical-standards-rtss)

- d) Time requirements, to provide customers with facilities to assist them to keep track of the time they spend gambling. This is required by the RTS, and the requirement has been amended over time.

41. Our programme of work connected with the Gambling Act Review includes work to further increase take-up of gambling management tools through proposed requirements on the visibility and presentation of these tools, and proposed requirements about how the tools are constructed for maximum efficacy. Further information is set out at paragraphs 34-38 above.

42. These tools are an important part of the regulatory framework, but they are primarily preventive in nature. As part of the wider framework, it is important that further controls are in place to support customers who are at risk of harm, and in particular those customers who due to gambling disorder or other reasons will find it hardest to use such tools. Therefore, the LCCP also places obligations on operators to protect consumers from harm, including imposing an obligation to take steps to identify customers at risk of harm and interact with customers which go beyond offering them player protection tools to use.

43. Between October 2019 and September 2022, the customer interaction requirements that were in place for remote operators were set out in the contemporaneous version of LCCP, specifically SR Code 3.4.1 which stated:

1. Licensees must interact with customers in a way which minimises the risk of customers experiencing harms associated with gambling. This must include:
 - a. identifying customers who may be at risk of or experiencing harms associated with gambling.
 - b. interacting with customers who may be at risk of or experiencing harms associated with gambling.
 - c. understanding the impact of the interaction on the customer, and the effectiveness of the Licensee's actions and approach.

2. Licensees must take into account the Commission's guidance on customer interaction.

44. The guidance referred to was in effect from October 2019 to September 2022 and can be found [here](#)²⁵. The guidance set out why customer interaction is a requirement, made clear the Commission's expectations in terms of the steps required of licensees to identify and interact with customers at risk of harm and suggested ways that licensees could meet them.

²⁵ [Customer Interaction Formal Guidance Remote operators July 2019 - no longer in effect .pdf \(ctfassets.net\)](#)

45. The purpose of the guidance was to share knowledge based on research, current practice (at the time) and lessons learned in order to support licensees in determining how they can meet the three key requirements set out in SR Code 3.4.1 in relation to customer interaction: to identify, interact and evaluate.

46. In November 2020 the Commission consulted²⁶ on the introduction of stronger LCCP requirements to help ensure remote gambling operators do more to identify consumers who may be harmed by gambling and to interact and take action sufficiently early and effectively to prevent harm. Following consultation, in September 2022 we introduced the majority of strengthened customer interaction requirements for remote operators. The applicable provision became SR Code 3.4.3 and is set out below:

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).
2. Licensees must take into account the Commission’s guidance on customer interaction for remote operators as published and revised from time to time (‘the Guidance’).
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.
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.
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:
 - a. customer spend
 - b. patterns of spend
 - c. time spent gambling
 - d. gambling behaviour indicators
 - e. customer-led contact

²⁶ [Remote customer interaction - Consultation and Call for Evidence - The Gambling Commission - Citizen Space](#). This consultation closed on 9 February 2021. Our [response](#) was published on 14 April 2022.

- f. use of gambling management tools
 - g. account indicators.
6. 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.
 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.
 8. Licensees must take appropriate action in a timely manner when they have identified the risk of harm.
 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:
 - a. tailored action at lower levels of indicators of harm which seeks to minimise future harm
 - b. increasing action where earlier stages have not had the impact required
 - c. strong or stronger action as the immediate next step in cases where that is appropriate, rather than increasing action gradually
 - d. reducing or preventing marketing or the take-up of new bonus offers where appropriate
 - e. ending the business relationship where necessary.
 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.
 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.
 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.
 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.

14. Licensees must take account of problem gambling rates for the relevant gambling activity as published by the Commission²⁷, 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.
47. Requirement 10 came into force on 12 February 2023 and the Requirements which directly cross-refer to the guidance will come into force on 31 October 2023. The guidance associated with SR Code 3.4.3 was published on 23 August 2023²⁸.
48. Further, as indicated at paragraph 36, the Commission is currently consulting further on customer interaction requirements and how operators identify customers at risk of financial harm, with a focus on financially vulnerable customers, and tackling binge gambling and significant unaffordable gambling over time, working with Government.
49. The Commission hopes that the Coroner can be assured that, as part of its ongoing drive to improve standards of player protection in the gambling industry, the Commission has brought about and continues to bring about higher standards across the industry through its rules about customer interaction and supporting guidance.

Response to Concern 1 insofar as it relates to Betfair

50. The Commission understands that Concern 1 relates to the adequacy and efficacy of both player protection tools (for example, deposit limits and self-exclusion) and Betfair's interactions with Mr Ashton, in particular in the period between July 2019 and 22 April 2021.
51. The regulatory requirements in relation to these areas at the time Mr Ashton was gambling with Betfair are set out above at paragraphs 43-45.
52. In December 2020 the Commission's compliance team conducted an assessment of a number of licensees within the Flutter Group, including the Betfair brand. As part of that assessment, we assessed the controls those licensees had in place around identifying those at risk of potential gambling related harm and the measures in place for customer interaction. Our findings from that assessment indicated that there were failings in the processes for identifying potential harm and interacting with customers. As a result, Betfair was placed into special measures and agreed to make a number of urgent improvements to its processes.

²⁷ [The importance of interacting with customers \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk)

²⁸ [Customer interaction guidance - for remote gambling licensees \(Formal guidance under SR Code 3.4.3\) \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk)

53. A follow-up compliance assessment was conducted in May 2021. As a result of that follow-up assessment the Commission was satisfied at that time that Betfair had made sufficient progress to reduce any risks associated with the licensing objectives and were generally compliant with the LCCP, and Betfair exited the special measures process in June 2021. The improvements to its processes during the special measures process included the phasing out of customer interactions conducted via email, and replacement with live chat and phone calls to interact with those customers identified as being potentially at risk.
54. The Commission was informed of Mr Ashton's death in July 2021, and sought further information about his gambling from Betfair in order to establish whether there were any concerns around compliance with the LCCP. That information revealed some evidence around the licensee's approach to identifying harm. There was concern that Mr Ashton's individual circumstances were not sufficiently considered and potential indicators of harm such as spikes in losses and some increased levels of play may not have received sufficient action. We also identified that the licensee had relied only on email interactions with the customer.
55. The date of activity on Mr Ashton's account was prior to the completion of the special measures process (during which Betfair implemented controls to remedy the concerns that had been identified by the Commission in December 2020) and our follow-up assessment in May 2021 which concluded that Betfair had made sufficient progress on their implementation of updated safer gambling controls. Having considered the information relating to Mr Ashton's gambling activities and the actions of Betfair, in November 2021 the Commission decided that it would not be appropriate to take regulatory action in respect of the matters identified during the review of Mr Ashton's case.
56. In light of the Report and the Coroner's findings, the Commission sought to obtain the evidence considered during the inquest including a copy of the hearing bundle which was received by the Commission on 4 September 2023. The Commission will consider that evidence with a view to identifying whether there is any new, relevant evidence which has come to light during the inquest of which the Commission was not previously aware and which gives rise to compliance concerns. If so, the Commission will consider whether it would be appropriate and proportionate to take any regulatory action.

Concern 2: The algorithm devised by and operated by Betfair, to assist its staff in, amongst other things, observing and monitoring the gambling patterns and practices of its customers, failed to flag up Mr Ashton as a problem gambler, despite the increases in his time online (gambling), the value of his deposits and the size of his losses, in part because his gambling practices, even in the last 10-12 weeks of his life, were deemed not to be exceptional, when averaged among gambling customers, generally.

57. 'Algorithms' are the technical processes used by remote operators to implement the customer interaction requirements and additional voluntary measures to further the licensing objectives and in particular the objective to protect children and other vulnerable persons from being harmed or exploited by gambling.

58. The Commission's requirements in relation to customer interaction therefore require operators deliver certain outcomes through their processes, and in the case of requirements introduced in September 2022 (referred to above at paragraph 46) also specify a number of aspects which those processes must include. Therefore, we would expect to see those aspects delivered within an operator's algorithm(s).

59. In assessing compliance, the Commission considers whether the licensee is meeting the requirements of the licence condition or SR Code provision, and in particular SR Code 3.4.1 (which was in place at the time of Mr Ashton's gambling) and SR Code 3.4.3 (which has since been introduced in order to be more prescriptive about aspects which must be included in customer interaction systems and processes, including the algorithms used as part of this).

60. A compliance assessment focuses on whether the suite of policies, procedures and controls implemented by a licensee (including their algorithms) has been designed to identify key areas of potential risk. The critical points of those policies, procedures and controls would then be tested to ensure that they are being followed and to ensure that there are appropriate outcomes. The assessment of those critical points is achieved by reviewing records of customer accounts and understanding whether and if so, how the behaviour of the customer triggered the licensees' safer gambling controls.

61. At the time of the compliance assessments of Betfair in December 2020 and May 2021, the requirements within the LCCP were based on principles that a Licensee should have in place processes to identify those at risk of gambling related harm and to interact with them, that process must include the identification of risks, interaction with customers and a process of

evaluation (see paragraph 43). As stated above there was also guidance in place to assist Licensees with designing these controls, which operators were required to take into account (see paragraphs 44-45).

62. In the context of the compliance assessment conducted in relation to Betfair in December 2020, as explained above the Commission identified failings in the processes for identifying customers at risk of potential harm, and as a result of the special measures process, Betfair implemented improvements to its processes, including implementation of new safer gambling controls:

- Phased out email safer gambling interventions, replaced by phone calls and live chat.
- Updated behavioural triggers in relation to account profit and loss, deposit increases, deposit value, stakes increase, stakes value and time spent on-site.
- Daily Deposit Limit reduction to £5k for over 25's and £1k for under 25's.
- £100 deposit limit for customers pending a safer gambling interaction.

63. The results of our follow-up assessment in May 2021 before Betfair exited special measures in June 2021 in relation to Safer Gambling controls were that customer outcomes were improved in terms of:

- An earlier point, financially, for customer intervention which reduced customer's exposure to losses,
- Depth and analysis of Enhanced Due Diligence for higher risk customers,
- Appropriate placing of account restrictions where necessary,
- Safer Gambling interactions, monitoring and decision-making processes.

64. In order to strengthen the requirements on licensees in relation to identifying customers at risk of harm, the Commission has introduced additional requirements directed at this issue and is consulting on further changes to contribute to improved and more effective customer interaction processes, which includes algorithms.

65. As set out above at paragraph 46, the majority of SR Code 3.4.3 was introduced in September 2022. This sets out requirements which relate to algorithms as it provides enhanced new requirements for identifying harm and taking proportionate action to the risk of harm. We will assess whether the effectiveness of identification and the effectiveness of actions taken to reduce harm improve through our compliance activity with operators.

66. To support the strengthened requirements, we published associated guidance in August 2023²⁹, which will come into effect on 31 October 2023. The guidance repeats the individual requirements in LCCP and for each one:

- Explains the aim of each individual requirement, so that gambling operators can develop their systems to address that aim.
- Provides formal guidance which gambling operators must take into account and be able to demonstrate how they have done so.
- Supplies some additional information for further context which gambling operators are not required to take into account.

67. The guidance is intended to support operators in spotting signs of harm and taking early action. The new guidance includes consideration of individual indicators of harm that are absolute for all customers (such as frequent changes in payment methods, use or lack of use of gambling management tools), and those which are indicators of harm in the context of the customer's gambling (such as unusual patterns of gambling spend, and chasing losses). In relation to consumer vulnerability, it sets out some example scenarios of how a licensee may become aware of a vulnerability and the actions that they should take as a result. For example, if a customer mentions their ill-health during a conversation with customer service, or discusses a recent bereavement and the impact that this is having on their gambling, example actions available to the licensee could be to review the account for other indicators of harm and to ensure appropriate gambling management tools are selected by the customer or on behalf of the customer. The guidance specifically references when the customer is at risk of suicide and says that the licensee should have processes in place for identifying and escalating the risk of suicide, including where necessary referral to emergency services. It also signposts licensees to refer to the Samaritan's guidance for gambling operators about urgent action and support for customers at risk of suicide³⁰.

68. Further, on 26 July 2023 we published a consultation³¹ on financial risk and vulnerability which proposed new obligations on operators to conduct risk based and proportionate checks to understand if unusually high losses are likely to be harmful in the context of a customer's financial circumstances, in the form of frictionless financial vulnerability checks and financial risk assessments. These measures, if introduced following consultation, would be added to

²⁹ [Customer interaction guidance - for remote gambling licensees \(Formal guidance under SR Code 3.4.3\)](https://www.gamblingcommission.gov.uk/customer-interaction-guidance-for-remote-gambling-licensees) ([gamblingcommission.gov.uk](https://www.gamblingcommission.gov.uk))

³⁰ [Samaritans - Industry guidelines for reducing the risk of gambling related suicide](#)

³¹ [Summer 2023 consultation on proposed changes to Licence Conditions and Codes of Practice \(LCCP\), Remote Gambling and Software Technical Standards \(RTS\), and arrangements for Regulatory Panels - The Gambling Commission - Citizen Space](#). The closing date for this consultation is 18 October 2023.

the suite of customer interaction requirements and set a consistent point at which operators must understand more about customers financial risk.

69. The Commission hopes that the above information will assure the Coroner that, as part of its ongoing work to improve player protection, the Commission is implementing and promoting initiatives which should have the effect of improving customer interaction processes, including the algorithms used by the gambling industry and therefore reducing the risk of harm to consumers.

Concern 3: As was apparent through the evidence of a senior employee witness during the court of the inquest, the operator Betfair appears to judge the extent of its responsibilities to gambling customers solely with regard to industry (regulatory) standards, rather than current good or best practice in order to prevent further harming problem gamblers, or those who, as a result of changing practices and patterns are likely to become problem gamblers.

70. While the Commission is committing to responding as fully as possible to the Coroner's concerns, it appears that this concern relates primarily to Betfair and how Betfair itself takes forward good or best practice. As such, the Commission's ability to respond is necessarily limited.

71. The Commission can, however, confirm that the framework of gambling regulation is designed to be outcomes focussed. While there are prescriptive requirements within the LCCP, it isn't possible to regulate for every individual circumstance. That is why operators are expected to conduct their gambling operations in a way that does not put the licensing objectives at risk and the Commission will hold an operator's senior operational staff and directors accountable for regulatory compliance and the protection of the licensing objectives (see paragraph 3.12 and 4.1 of the Commission's Statement of Principles). Further, the Commission expects licence holders to, amongst other things "*...comply with both the letter and spirit of their licence and associated Commission regulations...*"

72. The Commission will always look to improve the requirements in the LCCP based on evidence from our own experience of regulating the industry and new research. We also publish guidance to support operators which is updated over time to reflect good practice. But better outcomes for consumers will always be achieved if operators genuinely consider what they can do to be more effective in meeting the Licensing Objectives rather than just meeting the minimum requirements as set out in LCCP.

73. The Commission hopes that the Coroner can therefore be assured that, as the regulator of gambling in the Great Britain, the Commission expects operators to comply with both the letter and the spirit of their licences and the regulations and requirements surrounding them. The Commission continues to improve and refine the regulatory framework of requirements, including LCCP requirements and remote technical standards. We also review and update associated guidance to support the sharing of good practice, as well as publishing information following regulatory casework to share lessons learned and further inform good practice across the industry.

Conclusion

74. The Commission hopes that the matters set out above address the concerns raised in the Report. If, however, further information would be of assistance we will of course endeavour to provide this, as required.

Yours sincerely



**Chief Executive
Gambling Commission**

D. Annex – Information about other work undertaken by the Commission to reduce gambling harm

75. The Commission works with a wide range of other regulators, public health bodies, the third sector and businesses to reduce gambling related harms. We have included information about this engagement below, as well as other areas of work we believe relevant to include.

Gambling Commission’s Advisory Groups

76. The Commission’s has three independent expert advisory groups. These are the Advisory Board for safer Gambling (ABSG), the Lived Experience Advisory Panel (LEAP), and the Digital Advisory Panel (DAP).

77. ABSG provides independent advice on research, prevention and treatment. LEAP is made up of people with personal lived experience of gambling harms. This includes people who have suffered harm as a result of their own gambling or because of the gambling of someone else (e.g., a family member). DAP is made up of people with direct experience of working in a range of digital and online industries. Their role is to provide us with advice to help us regulate a digital and innovative industry such as gambling.

78. The Gambling Commission is responsible for decision-making which draws on the advice it receives from its expert advisory groups alongside other evidence and input from a wide range of stakeholders.

Research and evaluation

79. The Gambling Commission has recently published its Evidence Gaps and Priorities programme for 2023-2026. The programme identifies several key research questions that need to be addressed in order to improve the way in which the industry is regulated. One of our main research objectives is to enhance our understanding of gambling-related harms, and to establish the individual circumstances that increase one’s susceptibility to harm.

80. The Gambling Commission has conducted a major project to improve the way in which data on gambling participation and problem gambling is collected. The project enabled the

development of a comprehensive push-to-web survey (i.e., ‘Gambling Survey for Great Britain’) which includes questions on harms caused by one’s own gambling and other people’s gambling. The survey also includes questions on suicidal thoughts and attempts, and the extent to which suicidal ideation was caused by gambling. Responses will be collected from 20,000 respondents aged 18 and over per annum, and The Gambling Commission intends to publish findings from the first quarter of fieldwork in Spring 2024.

81. The Gambling Commission has allocated regulatory settlement funding to support the Gambling-Related Suicide Research Programme, led by [REDACTED]. The primary objective of this programme is to finance research within the UK aimed at providing insight into associations between gambling and suicide. The research funded through this scheme will aim to enhance the effectiveness of regulatory measures, harm reduction strategies, prevention efforts, and postvention interventions, ultimately leading to a reduction in the number of gambling-related suicides in the UK.

Contributions for Research, Prevention and Treatment

82. Licensed operators make annual financial contributions to organisations delivering research, prevention and treatment pursuant to obligations under SR Code 3.1.1. The amount contributed by operators is voluntary. Currently, the majority of contributions are made to GambleAware. The data, which is reported to us by organisations on the LCCP list is available on our website³² and shows that total contributions for 2022-23 were just over £53.6 million.

Identifying gambling harms: suicide research and prevention

83. The Commission is working with partners to understand and measure harms, working to continually expand the existing evidence base and to ensure that we are best placed to take effective evidence-based decision-making. This is because a deeper understanding of gambling harms for adults and children and young people will help to target prevention and education initiatives where they will have most impact.

84. As part of this work, the Commission also prioritised working with partners on research to understand the links between gambling and suicide. This work was commissioned by GambleAware and the results were published on 19 July 2019. The research helped identify actions to immediately strengthen protections. This included:

³² [LCCP RET contributions data – April 2022 to March 2023 \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk/lccp-ret-contributions-data-april-2022-to-march-2023)

- a. the National Gambling Helpline being extended to offer a 24-hour service for a two-year pilot period to seek to support those most at risk, funded by GambleAware and provided by GamCare.
- b. The Commission and the Samaritans working together on a programme of activity to raise understanding of the risks of suicide amongst gamblers and to further embed practices by operators, families and support agencies to identify those who may be at risk of suicide and provide support. In April 2021, this resulted in the publication of Industry guidelines for reducing the risk of gambling related suicide by the Samaritans, alongside a training course being available.

85. As well as these actions, the Commission continues to work with Government and other partners. This includes for example - supporting Public Health England's gambling evidence review, supporting the Government's consideration of measuring the links between gambling and suicide through vehicles such as the Adult Psychiatric Morbidity Survey, supporting work to embed relevant findings as part of the National Suicide Prevention Plan, and contributing to further research necessary to build greater common understanding of how to target ongoing interventions for those most at risk.

GamProtect

86. In February 2020 the Commission challenged the online gambling industry, represented by the industry trade association, Betting and Gaming Council (BGC), to develop a 'Single Customer View' (SCV) solution which could enable a holistic view of a customer's risk of harm from online gambling behaviour to help reduce gambling harms.

87. A cross-operator view of a customer's risk of harm could help identify and prevent potential gambling harms in those who hold accounts with more than one gambling company. Online gamblers hold an average of three accounts, with a significant proportion of younger adults holding more. Our evidence also indicates an increased risk of harm among those customers who take part in multiple gambling activities¹.

88. In July 2023 the ICO issued their final Sandbox exit report which sets out the way in which our challenge to industry can be fully implemented across the online gambling sector. Now that the Sandbox is complete, and a solution is in place, we look forward to the swift

development of GamProtect, which will include the onboarding of more gambling businesses and the expansion of the markers of harm applied to identify those at risk of harm ahead of very serious harm developing.

89. To date no other jurisdiction has implemented such a system. We are aware that other jurisdictions are following progress with a view to developing similar models within their markets.