2. Reporting of deaths by suicide to the Commission

Summary of proposal 2

29 In Section 4 of the Gambling Commission's Statement of Principles for Licensing and Regulation, we state that licensees should 'disclose to the Commission anything which the Commission would reasonably expect to know'. Ordinary code 1.1.1 (Cooperation with the Commission) states that licensees should 'disclose anything which the Commission would reasonably need to be aware of in exercising its regulatory functions'.

30 Our current view is that licensees should notify us when they become aware that a person who has gambled with them has died by suicide. This enables us to be able to assess the licensee's compliance with conditions of its licence and helps to inform our ongoing consideration of policy. While some licensees have notified us in this way in the past, there is a risk that this is not being done consistently.

31 We therefore propose to add a specific reporting requirement to Licence Condition 15.2.2, which would impose a requirement on gambling licensees to notify the Commission if they become aware that a person who has gambled with them has died by suicide. The requirement would require the provision of specified information, namely the person's name, date of birth, and summary of their gambling activity. The Commission considers that this would ensure that all operators are consistently reporting such information to the Commission.

32 The proposed condition would mean that failing to report the event to the Commission would constitute a breach of a licence condition. The Commission would have the power to commence enforcement action which could lead to a sanction as a result.

33 Licensees would only be able to notify us that a person who has gambled with them has died by suicide if they themselves are aware of this, either through direct contact or other means, such as media reports.

How would the Commission use the information?

34 The Commission has an established process for responding to reports when a person who gambles has died by suicide. We follow the same process whether the matter comes to the Commission's attention as a result of notification by a licensee, media reports, direct contact from bereaved families, or information provided by other authorities.

35 When a report is made, we consider the information available and may undertake further enquiries to determine whether there is evidence of regulatory failure in the licensee's processes for identifying customers who may be experiencing or at risk of experiencing gambling harm, and acting to prevent that harm. Where we identify failings, we consider appropriate regulatory action on a case-by-case basis.

36 The information is also used to inform our ongoing consideration of policy and, in particular, whether further protection measures are needed in the sector. All of our compliance and enforcement work informs the Commission's policy development, and in this instance could inform our policies regarding customer interaction, the use of gambling management tools and our knowledge of gambling across multiple operators.

37 The Commission recognises that the information provided by licensees would not and cannot be used to measure suicides associated with gambling or act as a proxy for such figures. This is because licensees will not always be aware when a person who has gambled with them has died by suicide and so the reported figures may not be complete, and also because the figures will not be able to tell us which suicides were associated with the customer's gambling, which is a highly complex assessment which is beyond the remit of licensees and the Gambling Commission.

The Commission's wider role

38 The Commission's role is as the regulator of gambling and our focus is on setting regulatory requirements and identifying and acting upon regulatory failings by our licensees.

39 However, the Commission also seeks to build understanding of the harms associated with gambling. We therefore included survey questions about suicidality in our pilot of a new approach to collecting data on gambling participation and prevalence, as part of this work. You can read more about this work on our website, including to see updates over time as the pilot progresses. Our aim is for the harms questions to be asked alongside core questions on participation and problem gambling in 2023, and become part of our suite of official statistics.

40 In addition, the Commission has given approval for funding through regulatory settlements following enforcement action to GREO[1] for a programme of research that will improve understanding of the links between gambling and suicide, and will include significant input from people with lived experience and academics.

Work across Government departments

41 The Department of Health and Social Care (DHSC) has stated its commitment to improving the evidence base between gambling and suicidal events to develop a better understanding of risk. This includes the commissioning of the Adult Psychiatric Morbidity Survey 2022, which is aimed at strengthening data-led estimates of the prevalence of suicidal events linked to gambling (results expected in 2024/25). This was set out for example in the Government response to the Preventing Future Deaths (PFD) report following the inquest into the death of Jack Ritchie.

Details of proposal 2

[1] GREO is an independent knowledge translation and exchange organisation with international experience in generating, synthesising, and mobilising research into action across the health and wellbeing sectors.

42 To ensure that we can investigate potential regulatory failings or breaches, and to assist with our ongoing consideration of policy, we propose to add a specific requirement to LCCP 15.2.2 requiring licensees to notify to the Commission when they become aware that a person who has gambled with them has died by suicide.

43 We propose that licensees must notify the Commission if they know or have reasonable cause to suspect that a person who has gambled with them has died by suicide. However, we would not expect licensees to actively investigate or verify the information in order to make such disclosures – rather, we would expect licensees to notify the Commission if they become aware of a death by suicide of any person who has gambled with them (for example, through media reports or notification from relatives of the deceased).

44 We propose that licensees are required to notify us where a person who has gambled with them has died by suicide irrespective of whether any link between the person's death and gambling has been established or suggested. By taking this approach, it avoids placing a burden on licensees to determine which deaths by suicide they should notify to the Commission and allows the Commission to bring together information across operators.

45 The proposed requirement has been drafted to apply to instances where a 'person who has gambled with a [licensee]' has died by suicide. This means that it would not be necessary that the customer was actively gambling with the licensee at the time of their death or shortly before their death for the requirement to apply: the death should be notified to the Commission irrespective of the period of time that has elapsed between the death and the most recent gambling activity. Our current view is that this will best enable the Commission to combine information across multiple operators about gambling before a death by suicide and informs both our compliance and enforcement work and our ongoing policy considerations. In future, we may consider adding a time limit on which deaths by suicide need to be reported, should it become clear from the data that deaths dating back beyond a certain period need not be disclosed if the information is no longer informing our compliance and enforcement assessment.

46 The proposed requirement includes the particulars of information which we currently consider should be provided when a licensee makes a notification to the Commission, if that information is held by the licensee. We have proposed that this includes the name and date of birth of the customer so that reports relating to the same customer can be linked. We also propose that the licensee provides a summary of the gambling activity. A summary of the gambling activity is likely to include information about any self-exclusion agreements or customer interaction that took place for that individual which is likely to be relevant to any consideration of whether the operator has complied with its regulatory requirements. This is the type of information which has been provided to us by operators who have made reports of deaths by suicide.

47 The proposed requirement does not impose on licensees any new or additional requirements or duties in respect of data retention. The Commission has previously indicated that licensees should ensure that data which relates in any way to regulatory compliance should be available for a minimum period of five years after the end of a relationship with a customer. However, there are some exceptions to this, for example, in the case of online self-exclusion where operators retain data for 7 years after the end of the self-exclusion period which the individual has selected in order to administer the return to gambling process.

> *New paragraph for insertion within current paragraph 15.2.2 - Other reportable events*
>
> *Applies to all operating licences*
>
> *The licensee must notify the Commission, as soon as reasonably practicable, if it knows or has reasonable cause to suspect that a person who has gambled with it has died by suicide, whether or not such suicide is known or suspected to be associated with gambling. Such notification must include the person's name and date of birth, and a summary of their gambling activity, if that information is available to the licensee.*

Consultation Questions

To what extent do you agree with the Commission's proposal to add a specific requirement to the LCCP, which requires a licensee to notify us if it becomes aware that a person who has gambled with it has died by suicide?

Multiple choice answer [for each question]

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give your reasons for your previous answer to below.

The justification for requiring the reporting of suicides is very weak. All it does is add a further administrative burden to operators and, in the case of our members, will reduce the sums raised for good causes. Paragraph 37, above, states that "*the figures will not be able to tell [the Commission] which suicides were associated with the customer's gambling, which is a highly complex assessment which is beyond the remit of licensees and the Gambling Commission*". What, then, is the purpose of collecting the data?

The proposal is to make this a licence condition while, at the same time, requiring only that operators must "*notify the Commission if they know or have reasonable cause to suspect that a person who has gambled with them has died by suicide*" (paragraph 43). That same paragraph goes on to say that the Commission "*would not expect licensees to actively investigate or verify the information in order to make such disclosures*". The licence condition would be unenforceable and therefore pointless.

The quality of the data the Commission will obtain from these notifications is likely to be very low, given that it is based only on anecdotal evidence. Paragraph 41 states that the DHSC has already commissioned a study into the links between gambling and suicide and this is likely to provide much better data than will be obtained by operators scanning newspapers.

Although paragraph 43 appears to stand legal doctrine on its head by allowing ignorance to be an excuse, the extent to which operators are expected to be proactive remains unclear. For instance, when a subscriber's death is notified to an operator, are they expected to ask the cause of death? Is every suicide seen reported in the media supposed to be compared with subscriber databases? The former would be both intrusive and inappropriate, and the latter would be burdensome for no value.

In addition, our members have a number of other concerns:

- While the disclosure of sensitive personal information is not a breach of the Data Protection Act, it is possible that contractual terms and conditions may be breached as a result of such disclosure to a third party.
- Members who are medical charities have raised concerns about patient confidentiality in cases where a patient is also a lottery player.
- Suicide is often very difficult to determine, let alone the cause of suicide (as acknowledge in paragraph 37), and open verdicts are often recorded where there is some doubt.

The Council believes this requirement to be ill-conceived although is prepared to acknowledge that one solution might be to exempt lotteries from the requirement, given that no causal link between lotteries and problem gambling, let alone suicides, has been established, and that the National Lottery, accounting for 90% of lottery activity, is already excluded.

The Commission frequently claims to be an "evidence-led" regulator. There is no evidence at all that this proposed requirement is either necessary or will add to the evidence base.

To what extent do you agree with the proposed new wording for Licence Condition 15.2.2?

Multiple choice answer [for each question]

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please give your reasons for your previous answer below.

See above. We object to the substance so can hardly agree with the wording.

Can you foresee any difficulties for gambling businesses in complying with this requirement?

Multiple choice answer

- Yes
- No
- Not sure

Please explain any potential difficulties and reasoning for your previous answer below.

Again, see earlier comments.

Do you have any information on the economic impact of this proposal? Please give your reasons below.

It is an additional administrative burden, and the Standard Cost Model could probably work it out. Submitting information to the Commission is not as streamlined and simple as the Commission may think.