

Complaints processes in the gambling industry

**A review one year after the introduction of the
Alternative Dispute Resolution (ADR) scheme**

March 2017

Foreword from the Chief Executive



The way that a business responds to a complaint speaks volumes about how that business sees its relationships with its customers. Our ambition for the gambling industry is that the industry's approach to resolving complaints is envied and adopted by businesses in other sectors. We don't just want gambling operators to meet their regulatory and legal requirements in respect of alternative dispute resolution (ADR). We want to see an industry that aspires to excellence in complaints handling. An industry that values and seeks out feedback from customers, that swiftly and effectively resolves customer complaints, and that uses the learning from those customers to raise its standards and deliver ever higher levels of customer service.

Complaints from consumers are an important tool for any industry. They can help gambling operators understand how well their businesses are meeting the needs of their customers and whether there are areas that can be improved to both satisfy and retain existing customers and to increase their appeal to new ones. Data from complaints can also help us, as the gambling regulator, to identify emerging problems in the sector that might mean we need to take action.

"Complaints from consumers are an important tool for any industry."

It's vital that consumers can raise complaints and get operators to resolve them. An effective complaints process can help to improve consumer confidence in an industry. Such trust will support the industry long-term, and will also contribute to wider attitudes towards gambling within our society. Effective consumer complaints handling is a key element in gaining this trust.

The insight that complaints provide into consumer perceptions of the gambling industry is perhaps never more important. Our survey data tell us that 61% of respondents who gambled during 2007 thought that gambling was fair and could be trusted. By 2016, only 38% of respondents agreed. These figures should give operators cause to pause and ask why consumer confidence appears to be waning. The first place to look for the answers might be in what consumers are saying in their complaints.

It is now just over a year since the European regulations on ADR in the United Kingdom came into effect. The regulations introduced new requirements for businesses, including gambling businesses. They also established the Gambling Commission as a competent authority, responsible for certifying ADR providers in the British gambling sector.

This is a good time to review the impact that the new regulations have had, and to look more generally at complaints procedures across the gambling sector in Great Britain. It aligns with the Government's intentions to improve processes for consumers more generally. HM Treasury announced in the Spring Budget 2017 that the Government will shortly publish a green paper to examine markets that are not working effectively, and set out the initial steps that it will take to try to make a difference for consumers. Good consumer complaints processes play an important role in helping markets to work effectively, and can indicate where problems exist.

"In the last year we received nearly 77,000 contacts from members of the public. This is an increase of over 300 per cent on the last two years."

In undertaking this review, we have looked at the information we receive from consumers via our contact centre, and at other data. In the last year we received nearly 77,000 contacts from members of the public. This is an increase of over 300 per cent on the last two years. It tells us that existing complaints arrangements in the sector are not meeting consumer needs. It has led us to look not only at the dispute resolution procedure, but also at how operators are developing, publicising and administering their own consumer complaints processes. Our main focus is that gambling businesses should be handling their own complaints fairly and effectively.

Today we are publishing our research and findings into complaints processes in the gambling industry, together with a summary of the areas we want to focus on. We will develop the proposals from this review across 2017. During this time we want to work with gambling operators, trade associations, consumers and their representatives, commencing with an ADR provider roundtable in May 2017. In particular, we will continue to work with and learn from complaints processes in other sectors where redress arrangements may be working better.

Most importantly, we welcome views on the proposals from consumers themselves. We aim to develop a method to capture consumer views, most likely through a focus group or similar, in the next few months. In the meantime, people can share their views by contacting us at consumers@gamblingcommission.gov.uk.

"Given the fundamental importance of consumer complaints, we expect that good businesses will want to take a lead in this work to drive up standards in complaints handling and redress."

Our review lays down a number of challenges:

For gambling operators - to take complaints more seriously by operating complaints procedures that are genuinely accessible and that give consumers trust that their concerns have been listened to and acted upon in a timely way.

For ADR providers - to consider whether they are doing enough to help raise standards in this industry. Could they do more to drive change by sharing learning from complaints? Do their processes and contractual arrangements with operators allow them to consider complaints fully, independently and transparently?

For the Gambling Commission - to use our dual role as regulator and competent authority more effectively by putting in place rules and standards that support and, where necessary, require more comprehensive approaches to complaints handling by both operators and ADR providers.

We are ready to play our part in meeting these challenges. Given the fundamental importance of consumer complaints, we expect that good businesses will want to take a lead in this work to drive up standards in complaints handling and redress. It is now time that the gambling industry raises its ambitions and works with us and each other to deliver a complaints system that consumers can have real confidence in.



Sarah Harrison
Chief Executive of the Gambling Commission

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Executive summary

For this review, we have looked at information we receive from consumers, and at other data. These tell us that existing complaints arrangements are not meeting consumer needs.

Background – the complaints process in the gambling industry

Consumers should first make any complaint directly to the gambling business.

If the complaint is about the outcome of a gambling transaction, and the consumer and business cannot agree a solution, then a consumer can ask an ADR provider to look at it. We call this a dispute. The ADR provider will decide whether or not the business owes – and must pay – money to the consumer, or help the consumer and the business to come to an agreement.

The Commission approves ADR providers. We also accept reports from consumers about the way a gambling business is being run. We use this information to look at whether a business is meeting the conditions of its gambling licence. But we don't investigate individual complaints, and can't help consumers to get their money back. Nor do we change decisions made by an ADR provider.

Complaints and disputes

ADR providers can look only at disputes about the outcome of a gambling transaction. But some complaints are about the way a gambling business is being run, as well as being about a gambling transaction. This can make it difficult for ADR providers to look at the complaint. As a result, some consumers might not be able to get an ADR provider to look at their transaction.

- We will look at our definition of disputes to make sure ADR providers look at the widest range of complaints about a gambling transaction.
- We will review our information to consumers to make it clearer when their complaint is one that an ADR provider can't deal with, and any other options they may have.

Gambling businesses

As a condition of their gambling licence, gambling businesses must report information about their complaints to the Commission. We have concerns that the data we receive is not always accurate.

- We will improve the instructions we give businesses about how and when to send us their data. We will take action if we find they are not submitting the correct information.

Gambling businesses must provide information about how to make a complaint. We looked at some businesses complaints policies in detail. All met the basic requirements of their gambling licences, but they varied in the information they provided, and how easy they were to find.

- We will consider whether we should require gambling businesses to provide more information in their complaints policies and to make them more visible. If we decide to make any changes, we will consult on these before we put the changes in place.
- We want to make it easier for consumers to make complaints. We will introduce the use of Resolver in 2017. Resolver is an online tool that supports consumers to raise complaints. It is independent from gambling businesses, and has its own website.

ADR providers

ADR providers can look at complaints about the outcome of a gambling transaction when the gambling business has not been able to resolve it. We approved 11 ADR providers for the British gambling industry. We expected this to give consumers more choice of provider, and that competition between them would help to drive quality and accessibility. But our evidence indicates this is not happening, and that standards across providers might not be consistent.

To get our approval, providers must meet standards set out in the ADR regulations. These standards are not specific to gambling. Because of this, they don't provide detailed requirements on customer service and decision making, for example. Our information indicates that consumers do not always get good customer service from providers, and that decision making standards vary.

ADR providers can also inform the gambling industry and the Commission about emerging problems that they spot through the complaints they see. Not all ADR providers currently do this.

- We will consider reducing or limiting the number of approved providers, and set out a framework of requirements for providers in the gambling sector. This will include standards around customer service, decision making, and supporting the gambling industry. It will also include a review of governance arrangements. This will make the role of an ADR provider clearer, improve consistency, and help to reassure consumers that a provider is independent of the gambling business.
- We will review all approved providers against our new framework. If any providers don't want to meet the new standards, they can withdraw from the list of approved providers.

The Gambling Commission

Consumers can report the way a gambling business is being run to us. We are not a complaints service and don't investigate individual complaints. When we get a report about a gambling business, we don't give out information about whether we will investigate the business. This can make consumers unsure of our purpose, or what we do with their information.

- On our website, we will make it clearer what we do with the information consumers give us, and the actions we might take. This will help consumers to understand our role.
- We will make it clearer which complaints an ADR provider can look at, and look at other ways to help consumers understand when they can get help to get their money back.

Our proposals in this review are based on a lot of information that we have had from consumers. We would like consumers to give us their feedback on these proposals.

- We will develop a way to collect this feedback from consumers.

As the gambling industry regulator, we can use information about complaints to identify when there may be new issues in the gambling sector that we need to look at more closely. We explained in the section on gambling businesses that we need to take steps to improve the information we get.

Conclusion

Our evidence has shown us that complaints processes in the gambling sector are not working as they should for consumers. In particular we are concerned about some areas where ADR providers and gambling operators need to make changes to the way they do things. We know that we also need to make improvements to some of our own processes.

- We will begin to introduce the proposals from mid-2017, starting with providing information to Resolver so that consumers can use the Resolver tool to make complaints.
- We will begin to roll out the other proposals over the rest of 2017, and the next few years.
- Where we need to consult, it may take longer to implement the proposals.

1 Introduction

- 1.1 The European Directive on alternative dispute resolution (ADR) in the United Kingdom came into effect in 2015, introducing the [Alternative Dispute Resolution for Consumer Disputes \(Competent Authorities and Information\) Regulations 2015](#) (the ADR regulations). Under these regulations, when a business cannot resolve a consumer complaint, it must point consumers to a certified alternative dispute resolution provider. The business must also state whether it intends to use that ADR provider.
- 1.2 The regulations also set out standards that ADR providers must meet in order to achieve certification, and established competent authorities to certify ADR providers. The Gambling Commission is the competent authority for the gambling sector, including the National Lottery. This means that we are responsible for approving ADR providers, and maintaining details of those [approved on a list](#). The regulations require us to ensure that we approve ADR providers that meet, and continue to meet, requirements of impartiality, fairness and independence, amongst other areas.
- 1.3 We currently have 11 approved ADR providers. Some of these specialise in particular types of gambling, such as casino or lotteries. All gambling operators licensed by the Commission must have arrangements in place for consumers to be able to refer a dispute to one of these 11 providers if the operator cannot resolve the complaint.
- 1.4 The ADR regulations came fully into effect on 1 October 2015. In November 2016, approved providers published their first annual reports under the regulated scheme. This is a good opportunity to review any impact the introduction of the new regulations has had on:
 - operators
 - industry standards
 - consumers, who stand to lose or gain most from these procedures.
- 1.5 This review of the first full year of operation under the ADR regulations draws on evidence from ADR providers, gambling operators, and consumers. It aims to consider how well the existing arrangements work for consumers, and whether improvements could be made to make sure that processes are as clear, transparent and fair as possible.
- 1.6 The increasing number and the nature of consumer complaints we receive through our contact centre, along with other data, gives us concern that current complaints processes across the gambling industry in Great Britain are not delivering a service that gambling consumers expect or deserve:
 - data from our [Gambling participation in 2016: behaviour, awareness and attitudes report](#) shows that in 2008, 61% of respondents who had gambled in the last 12 months felt that gambling was fair and that it could be trusted. By 2016, only 38% of respondents agreed
 - in 2016, our contact centre received 5,169 complaints from consumers about gambling, making up 76% of all contacts we received during the year. This was the first year that we have recorded consumer complaints separately from other enquiries, a decision we took as we became aware of the increasing number of contacts from consumers we were receiving.
- 1.7 The current processes do not deliver what they should for us. Consumer complaints in any industry can be an excellent barometer for emerging problems in the industry, which might be either thematic or with an individual business. Although we collect data on complaints in a number of ways, the information we currently receive does not assist us to identify emerging themes or trends in order to take early action.
- 1.8 Gambling operators, too, can benefit from effective complaints processes, using these to determine the best ways to satisfy and retain customers, and meet their needs.

1.9 Therefore, while the introduction of the ADR regulations is the catalyst for this review, we have seized this opportunity to consider complaints handling more widely across the gambling industry in Great Britain. This is in line with the UK Government's intentions to make improvements for consumers. In the Spring Budget 2017, HM Treasury announced that the Government will shortly publish a green paper to examine markets that are not working effectively. The Budget also set out the initial steps that the Government will take to try to make a difference for consumers. We agree that consumer complaints processes are very important to effectively functioning markets.

1.10 As the regulator for the gambling industry, we have a duty to aim to permit gambling so long as we think it reasonably consistent with the three licensing objectives set out in the [Gambling Act 2005](#) (the Act). These objectives are:

- to keep gambling free from crime and from being associated with crime
- to ensure that gambling is fair and open
- to protect children and vulnerable people from being harmed or exploited by gambling.

And, subject to these objectives, we have a duty to ensure that the returns to National Lottery good causes are maximised.

1.11 Our [Licence conditions and codes of practice](#) (LCCP) are a key part of the framework we use to uphold the objectives set out in the Act. Through LCCP (social responsibility code provision 6), we require licensed gambling operators to meet a number of requirements around complaints handling. Licensed operators must:

- have a written complaints handling procedure
- make the information accessible on premises, or on websites, as appropriate
- have arrangements in place to refer to an approved ADR provider, and ensure that the services of any such provider are free to the customer
- record and provide to the Commission certain information about complaints, such as the number of complaints not resolved at the first stage of the complaints procedure, and the outcome of each complaint referred to an ADR provider.

This review will also look at whether these requirements are sufficient to deliver a complaints process that is consistent, transparent and fair across the gambling industry.

1.12 In 2016 we set out three main themes to our approach to communicating with consumers:

- transparency and clarity in what we do and how we make decisions
- responsiveness to change
- forming partnerships with other organisations involved in relevant work.

We echo those three themes in this review as we look at what consumers experience when making a complaint, and how well the industry is placing consumers at its heart.

1.13 It should be noted that although the review mainly uses the term 'gambling operators' throughout, review findings also apply to the National Lottery and therefore to Camelot as current holder of the National Lottery operating licence.

1.14 Findings from this review will inform our future policies on complaints and disputes handling, and our programme of work in 2017/18. More information about what this will entail is included in **Section 7: Conclusions and next steps** of this review.

2 Overview of the complaints process

2.1 The consumer complaints process in the gambling industry in Great Britain is driven by both the UK ADR regulations and the Commission's LCCP for licensed operators. The National Lottery operator has requirements written into its operating licence. Gambling operators, ADR providers and the Commission each have roles to play.

The gambling operator

2.2 The gambling operator must provide a written procedure for handling consumer complaints and disputes, as required by LCCP social responsibility code provision 6.1.1. In the first instance, the operator should attempt to resolve the complaint, whether this be in person in gambling premises, or via an online method.

2.3 The operator must have arrangements in place for the consumer to refer a dispute that the operator cannot resolve to an independent ADR provider. This service must be free of charge to the consumer. The operator must direct the consumer to the provider that they have made arrangements to use.

2.4 Through LCCP, we have defined disputes as a subset of complaints:

- 'complaint' means a complaint about any aspect of the licensee's conduct of the licensed activities, for example, a complaint about the outcome of the consumer's gambling, or concerns about the way the operator conducts the gambling business
- 'dispute' means any complaint relating to the outcome of the consumer's gambling transaction not resolved at the first stage of the operator's complaints procedures. Only disputes may be referred to an ADR provider.

The ADR provider

2.5 The consumer may choose to escalate their dispute to the ADR provider named in the operator's complaints procedures. The consumer can choose to ask a different ADR provider to look at the dispute. Practically, this is only possible if the operator agrees to use a provider other than the one named. We are aware of cases where the operator has refused to deal with a different provider.

2.6 Consumers are under no obligation to escalate their dispute to an ADR provider. They can choose to take the matter to the courts at any point during the complaints process. However, we consider that the ADR process is a useful tool for consumers, frequently offering a quicker and cheaper alternative than referring a matter to the courts.

2.7 The ADR provider must notify both parties to a dispute once the provider has received all documents. The provider must give both parties opportunity to express their view and to comment on any information provided.

2.8 The ADR provider must tell both parties the outcome of the dispute within 90 days of receiving all the documents. Exceptions can be made if the case is highly complex, but if so, the provider must tell both parties how much longer they expect the outcome to take. Where the dispute concerns an amount of £10,000 or less, the decision should be binding on the operator if accepted by the consumer. Those over £10,000 need not be binding.

2.9 ADR providers may reject complaints under certain conditions, for example, if the complaint is frivolous, or if the consumer has not tried to resolve matters with the operator. ADR providers cannot consider complaints that do not relate to the outcome of a gambling transaction, such as complaints about service standards, breaches of licence conditions.

2.10 If a consumer is not satisfied with the outcome of the ADR provider's decision, they have the option to take the matter to the courts.

The Gambling Commission

- 2.11** As competent authority under the ADR regulations, the Commission is responsible for approving ADR providers and ensuring that they continue to meet the requirements of the regulations, as previously mentioned in paragraph 1.2.
- 2.12** Our role in regulating gambling in Great Britain focuses on aiming to permit gambling in so far as it meets the three licensing objectives referred to in paragraph 1.10. This role requires us to work with licensing authorities, and to issue operating licences to gambling operators who meet our licensing requirements and wish to offer services to consumers in Great Britain. However, resolving consumer complaints, or obtaining redress for consumers is not part of our role.
- 2.13** Consumers may make reports to us about the way a gambling business is being run. We encourage such reports and we may use the information to investigate whether an operator is breaching its licence conditions. But we do not investigate individual customer complaints or disputes, and we cannot help consumers get their money back.
- 2.14** Consumers may also report to us if they are not satisfied with the service they have received from an ADR provider. We will take this into account when considering whether the provider continues to meet the requirements of the ADR regulations. We are not able to change the outcome of a provider's decision.
- 2.15** This means that there are some instances when the only further option for a consumer who is not satisfied is to refer the matter to the courts. Taking a case to court may not be an easy process for consumers. It is therefore important that we make sure that the complaints procedures in place are as easy as possible for consumers to access and use, and as thorough as they can be.

3 What is a complaint?

- 3.1** Paragraph 2.4 outlines our definition of complaints and disputes, which relate to issues that might impact on the licensing objectives.
- Our interest is in complaints that are expressions of dissatisfaction about any aspect of the gambling operator's licensed activities. This does not include, for example, complaints about commercial matters, such as the quality of the décor or the facilities, because they would not present a risk to the licensing objectives.
 - Disputes are a subset of complaints that specifically relate to the outcome of the consumer's gambling transaction. They do not include wider concerns that may relate to the conduct of the gambling operation. As we stated in our [2013 Consultation on proposed amendments to LCCP](#), we consider that disputes relating to the outcome of gambling transactions include those, for example, linked to the application of bonus offers, account management, or the ability to access funds and winnings. These are all part of the overall gambling transaction.
- 3.2** A consumer may have other complaints about the quality of the operator's facilities. The complaints reporting requirements are not intended to imply that such other complaints are not important. However, where there is no risk to the licensing objectives, and no transaction is affected, it is the operator's concern whether their commercial practices are placing them at risk of losing customers. So the operator should consider how best to address these. These complaints are not something that we should be involved in as regulator, nor are they matters that would need to be referred to an ADR provider.
- 3.3** The distinction between complaints and disputes impacts on consumers in that ADR providers only look at disputes, that is, complaints with a transactional element. Therefore, consumers can only seek redress for disputes. Although consumers can report complaints to us at the Commission, we are not a consumer complaints body and cannot help to get the consumer's money back.
- 3.4** It is important, therefore, that both we and gambling operators ensure that we provide correct information about when an ADR provider can look at a case (that is, when the dispute relates to the outcome of the transaction), and what other options there might be, especially where the issue is not a transactional dispute. We consider that information, from any source, provided to consumers making a complaint should be clear on the options consumers have to escalate complaints, for example, to the ADR provider to seek redress, or to the Commission to provide information.
- 3.5** Evidence from consumers who contact us at the Commission indicates that consumers often do not know who is best placed to help them with a complaint. This can be frustrating for the consumer.
- 3.6** This difficulty is compounded by the fact that some complaints do not fall neatly into either the complaint or dispute categories. For example, a gambling operator might suspend or close a consumer's account for a variety of reasons, including where they suspect that the:
- consumer has already requested to exclude themselves from gambling with that operator because they are at risk of harm from gambling
 - consumer has gambled on events that may not be fair, or might be fixed
 - funds that the consumer is using to gamble may be the proceeds of crime.
- 3.7** Each of the examples in this (non-exhaustive) list includes a risk to the licensing objectives. The Commission may need to consider whether the gambling operator has the correct policies in place to meet the conditions of its gambling licence. However, each example also stems from a gambling transaction, and the main concern for the consumer is that they are unable to withdraw funds or make deposits.

- 3.8** Where a ruling on the outcome of a transactional dispute may depend on the outcome of an investigation by the Commission or by another body, it is difficult for ADR providers to adjudicate. Up to now, we have taken the approach that the provider can refuse such disputes because they relate to a possible breach of licence conditions and might impair the effectiveness of the provider. We take a risk-based approach to investigating potential licence breaches, and we cannot specify when, or whether, we might investigate an individual operator when we receive a report. Nor can we provide any information about investigation progress before we conclude an investigation. An ADR provider might be able to decide on a dispute once the Commission has concluded and made public the findings of an investigation, but that might be some time after the original event.
- 3.9** This approach unfortunately makes it difficult for a consumer to access an ADR provider to help resolve their complaint, which could go unresolved for some considerable time. We are considering how best we might improve matters for consumers who experience this.
- 3.10** This is likely to include:
- revisiting our definitions of complaints and disputes to consider whether it is possible for ADR providers to consider more disputes
 - working closely with ADR providers to identify whether transactional elements of cases can be ruled upon regardless of any accompanying investigations
 - agreeing with operators and ADR providers clearer ways of communicating to consumers the exact position of their complaint. This is particularly important when suspicions of anti-money laundering are raised, because it is illegal to make someone aware that they may be the subject of a formal investigation.
- 3.11** In such instances, the consumer still has the option to take the matter to the courts.

Summary

- 3.12** The main points raised in this section are as follows:
- consumers should be able to express their dissatisfaction to the gambling operator in the first instance, and receive accurate information about further steps if the operator is not able to resolve their complaint
 - the information should help them understand what they can expect from any escalation of their complaint, regardless of whether it is a complaint or a dispute
 - an ADR provider can help to resolve a dispute – an unresolved complaint about the outcome of the consumer’s gambling transaction
 - the Commission can look at information from complaints that may pose a risk to the licensing objectives, but cannot help the consumer get their money back
 - the consumer has the option to take their complaint to court if they are not satisfied with the outcome of the ADR provider’s decision, or at any other time.

What are we doing?

- 3.13** We will look again at our definition of the differences between complaints and disputes, and consider whether we can change this to ensure that ADR providers can consider more complaints with a transactional element.
- 3.14** We will work further with ADR providers on this definition, and will consider whether we need to set out guidance on what we expect approved providers to look at. We discuss this in more detail in section 5.
- 3.15** We have introduced a section on [consumer rights](#) on our website, including information on complaints. We will revisit this information in light of our review of our definitions.
- 3.16** We are considering other ways to help consumers get accurate information about how to make a complaint and will work further with operators and ADR providers on this. A consumer support tool to make complaints could help to provide correct information at the right time. We will discuss this further in the next section.

4 The operator complaints process

- 4.1** As stated in the previous sections, all gambling operators that provide services to customers (rather than services to other businesses) must have a written complaints procedure. The nature of this procedure will depend on the nature of the gambling business. For example, a large operator who runs both online and retail businesses and owns a number of premises might choose to have a central complaints handling point and route enquiries through a website. An on-course bookmaker might not own any premises, and might generally deal with all complaints in person.
- 4.2** Regardless of the nature of the gambling operation, we expect the complaints procedure to be accessible and transparent to the gambling customer.
- 4.3** We collect data on complaints from all operators that we license, including the numbers of:
- complaints received and not resolved at the first stage of the complaints procedure
 - complaints above that are disputes (that is, about gambling transactions)
 - disputes that have been referred to an ADR provider.
- 4.4** As part of this review, we also conducted a basic examination of the complaints policies of a sample of gambling operators. We looked at the information available via their websites about the complaints processes they offered, and how these were made available to the consumer. In carrying out this examination, we took into consideration that online gambling businesses are more likely to have information available on a website than are retail businesses, particularly small retail gambling businesses. As a result, we were not able to look at complaints information from all types of business.

Volumes of complaints

- 4.5** Our data show that most complaints made in retail gambling are in the betting sector. This is not surprising because there are more betting shops than other premises - our [industry statistics](#) of September 2016 show there are 8,709 betting shops compared with 575 bingo premises and 148 casinos in Great Britain. However, we have concerns about the accuracy of the data that operators are reporting to us. For example, the complaints data provided by betting shops indicates that on average only 3.3 complaints per shop went unresolved at the first stage of their complaints resolution process in the whole of 2016. Similarly, the number of complaints not resolved at the first stage reported to us by casino operators equates to just 1.9 complaints per casino, and in bingo premises, the 454 reports in 2016 equate to only 0.8 unresolved complaints per premises.
- 4.6** Averaging figures over premises can be misleading and does not account for the fact that some premises might receive many more complaints than others. However, we are concerned that these figures for complaints unresolved at the first stage appear unrealistically low. Figures are similarly low for the number of disputes recorded, and the number of disputes referred to ADR providers. This may indicate that operators are not reporting or recording the information properly rather than that there are few unresolved complaints.
- 4.7** The online gambling sector recorded 60,500 complaints in 2016 across 791 licensed activities, or 76.5 complaints per activity over the year. This larger figure may indicate that it is easier to recognise and record complaints made online than in a retail premises where some complaints may be dealt with in the course of general customer service. However, the figure is still lower than we would expect.
- 4.8** Accurate information about complaints in the industry is very important to help us recognise emerging issues with either individual operators or in particular areas. We will revisit the definitions of the information we require to help gambling operators to understand when to record complaints, disputes and referrals. We will also look more closely at the returns submitted by operators, and take action where these appear to be inaccurate.

Operator complaints policies

- 4.9** Our website research found few differences between the various sectors in terms of locating complaints policies on websites. Most of our sampled operators provided information about how to make a complaint, including details about how to contact the operator's nominated ADR provider(s), in the *terms and conditions* section of the operator's website. Exceptionally, a few were found in the *about us* section of the website or, perhaps more inexplicably, in the *responsible gambling* section. One of the casinos sampled displayed complaints information on the bottom of the website homepage.
- 4.10** The differences in locating complaints information, particularly where it is contained within a document with a large number of other terms and conditions, might deter some consumers from finding or reading the policy. Our research tells us that the average length of a terms and conditions document for an online gambling operator is 9,500 words (approximately 21 A4 pages). Some ADR providers reported receiving disputes from consumers who had not first gone through the gambling operator's own complaints policies. This may be another indication that consumers have not read the gambling operator's policies before making their complaint. A more consistent approach across the sector to making complaints policies prominently available could therefore aid both consumers and ADR providers.
- 4.11** Only 39% (14 out of 36) of the sampled complaints policies provided information on how long the operator expected to take to resolve a complaint. The complaints policies from society lotteries appeared to be most likely to provide this information. Policies often provided little information about whether the consumer could expect an acknowledgement of the complaint, or would be approached for further information.
- 4.12** All the sampled policies provided information about the availability of an ADR provider, which is a requirement for gambling operators licensed by the Commission. Supporting information about the role of the ADR provider varied, however, and only 17% (6 out of 36) of the sampled policies stated that the ADR service was free for the consumer to use.
- 4.13** All operator policies that we examined appear to be complying with the letter of the requirements of their gambling licences. But there is a question about whether this is sufficient to achieve the intention behind the requirements. That intention is to allow consumers to access policies easily, and to ensure policies contain all the information a consumer is likely to want to know. On the positive side, policies were uncomplicated and easy to follow.
- 4.14** It is clear that we need to take action to make sure that consumers receive a consistent service across the gambling industry in Great Britain. We will therefore consider whether we should make changes to the existing licence requirements to require complaints policies to be more visible, and more effective. This could include basic standards for complaints handling. If we decide to propose changes to licence conditions, we will consult on our proposals.

Reporting to the Commission

- 4.15** Gambling operators are also required to report to us the outcomes of any disputes referred to an ADR provider. The reports should be made as a [key event](#). We know that in practice, not all operators are reporting such outcomes, and reports are sometimes made inconsistently, for example, via paper report instead of via our key events portal.
- 4.16** We know that our key events portal can sometimes be difficult to use. For example, it is not easy to add attachments, which is often the simplest way of providing detail on the outcome of a dispute. But the information we currently receive does not allow us to carry out a proper analysis of the outcomes of ADR decisions, and emerging themes.

ADR providers offer some analysis of decision making within their annual reports, which is useful. We consider that it would be more beneficial for us to be able to break such information down by sector and by operator in real time to be best able to identify emerging trends and issues, and drive improvements in the gambling sector.

- 4.17** Complaints data should also be very useful to gambling operators to help them identify areas that could improve their businesses, and potentially attract or retain more customers. We expect that any competitive business will want to understand what drives their customers, and where customers experience difficulties that might cause them to take their custom elsewhere. We expect operators to want to understand more about all the complaints they receive, and not just those that they report to us. Improved data collection would therefore benefit individual operators as well as the gambling industry as a whole.
- 4.18** We have been considering how to improve data collection on complaints and disputes. In the short term, we aim to look more closely at outcomes information provided to us by operators, and take action where this appears to be inaccurate.
- 4.19** Longer term, there may be other ways to collect information. We could consider asking ADR providers for more systematic data about the complaints they receive. While there are advantages to this, there are also disadvantages:
- Not every consumer whose complaint is not resolved at the first stage refers the matter to an ADR provider, so providers do not have the entire picture.
 - ADR providers report that a number of those who raise disputes with them stop communicating. In many such cases, it is likely that the consumer and the operator have reached an agreement without the ADR provider needing to come to a decision. However, the provider does not have information about the outcome.
 - Shifting the requirement for the relatively small number of ADR providers to report on every operator would increase the burden on providers, and potentially drive them to increase their costs.
- 4.20** We could also consider requiring operators to publish more detailed data about all the complaints they receive on their websites or in their premises. While useful, such data would be difficult to collate to identify overall emerging trends in the industry.
- 4.21** Currently, our preferred option is to consider introducing a system to collect data on behalf of all operators and ADR providers. We have approached the team behind the [Resolver](#) web tool that supports consumers to make complaints to a variety of different sectors and organisations. We want to make the Resolver tool available for gambling consumers to use, and we expect this to be possible shortly in the new financial year. Longer term, we believe Resolver can also help to collect data on gambling-related complaints that are made and/or escalated to ADR providers.

The Resolver web-tool

- 4.22** Resolver is independent and is free for the consumer to use. It is in use in a number of sectors, including energy suppliers (for example, British Gas, EDF Energy), public services (for example, HM Passport Office, DVLA) and others. Resolver is not affiliated with or endorsed by any of the organisations that it supports consumers to approach.
- 4.23** The Resolver tool performs the following services for the consumer:
- explains the consumer's rights in simple terms
 - helps the consumer to prepare an email using a template
 - allows the consumer to record all communications in the same place
 - creates a case file for the consumer
 - tells the consumer when to escalate their case to the next stage.

- 4.24** Resolver therefore provides an independent one-stop service for all aspects of the complaints procedure. By explaining the consumer's rights, it helps them to understand the process and decide if they wish to make a complaint. If the consumer decides to proceed, it sends the complaint directly to the business concerned, reducing the need for the consumer to search out complaints procedures on the business's website.
- 4.25** Resolver can also collect information about numbers and types of complaints submitted, which could result in more consistent data collection across a sector. In the longer term, data collected from Resolver could provide more accurate information on complaints and disputes and eventually replace the need for operators to make such reports themselves. This would depend on whether consumers prefer to use Resolver to raise a complaint.
- 4.26** We therefore intend to ensure Resolver has the information it needs to make the tool available to gambling consumers from 2017/2018. As Resolver is independent, gambling operators will not need to do anything for it to be introduced. It will simply provide consumers with independent support to contact operators and access their complaints procedures.

Summary

- 4.27** The main points raised in this section are as follows:
- The data that gambling operators currently provide about complaints and dispute referrals appears to be inconsistent, and may be partly missing. This makes it difficult for us to identify trends from the complaints in the gambling sector, and subsequently to drive improvements in identified areas.
 - Based on a sample, gambling operators appear to be complying with the basic requirements of the licence conditions and codes of practice.
 - Operators often present information about complaints policies within the general terms and conditions of a gambling website, although some operators present policies in other places. Terms and conditions are often lengthy in order to cover all the requirements, making a complaints policy less obvious.
 - ADR providers have reported a number of complaints received from consumers who have not first gone through the operator's complaints procedures. This may indicate that not all consumers can find the complaints policy easily.

What are we doing?

- 4.28** We intend to revisit the information we provide to gambling operators about when and how to record and report on complaints and disputes as part of their regulatory returns. We will also look more closely at the reports that operators submit to us, and take action where these appear to be inaccurate.
- 4.29** We will consider making changes to the licence conditions to require complaints policies to be more visible and more effective. We will consult on any proposals for change before we implement them.
- 4.30** We will consider whether there are short term improvements that we can make around methods of collecting data on the outcomes of disputes referred to an ADR provider.
- 4.31** We will facilitate the use of Resolver as a tool to support consumers to make complaints in the gambling sector early in 2017/18. We will also consider whether, in the longer-term, Resolver might be able to provide a solution to collecting data on complaints and disputes.

5 Disputes escalated to the ADR provider

5.1 Where a gambling operator is unable to resolve the consumer's complaint and the complaint is about the outcome of a gambling transaction (that is, the complaint is a dispute), the consumer can choose to escalate their complaint to an ADR provider.

What is an ADR provider?

5.2 ADR providers act as an independent middleman between the gambling operator and the customer when an initial dispute about the outcome of a gambling transaction cannot be resolved. We require them to provide their services free of charge to the consumer.

5.3 There are 11 ADR providers working in the gambling sector in Great Britain, each of which has been approved by the Commission. All gambling operators that we license must use one of these 11 providers for their dispute resolution.

5.4 The current approved ADR providers are:

ADR entity	Gambling sector(s) covered
ADR Group	All sectors
BACTA ADR services	Adult gaming centre Non-remote bingo Family entertainment centre Public houses and members clubs
Centre for Effective Dispute Resolution (CEDR)	Adult gaming centre Family entertainment centre Lotteries/National Lottery
eCOGRA	Remote – all sectors
IBAS (Independent Betting Adjudication Service)	Remote – all sectors Adult gaming centre Betting Bingo Lotteries Casinos
Jennifer Gallagher (Lindsays)	Lotteries
Joel Goldman	All sectors
National Casino Forum – Independent Panel for Casino Arbitration	Non-remote casino Non-remote bingo
Promediate (UK) Limited	All sectors
ThePOGG.com Ltd	Remote – all sectors
Tattersalls Committee	Betting

Why 11 providers?

- 5.5** We expected the relatively high number of approved ADR providers to provide consumers with more choice about which to use to deal with their complaint. Competition between providers could also have driven up standards of ADR provision.
- 5.6** In practice, the anticipated competition has not materialised. Figures from the ADR providers' first annual reports show that the bulk of disputes have gone to only two providers, and some providers dealt with no disputes over the year. In addition, because many providers have elected to specialise in one type of gambling, they do not compete with each other.
- 5.7** Nor does the arrangement appear to have provided additional choice to the consumer. The ADR regulations require the gambling operator to direct the consumer to an approved ADR provider that the operator has made arrangements to use. A consumer may choose to use a different ADR provider than the one specified, but only if the gambling operator also agrees to use this alternative provider. We know that some consumers have contacted alternative providers, but in practice very few operators have agreed to use a provider other than the one(s) they have already made arrangements with.
- 5.8** The outcome for the consumer is that they are unable to choose a provider. Some consumers have contacted us to express their dissatisfaction with this arrangement. Some have voiced concern that an ADR provider cannot be independent if chosen and paid for by an operator, and we can see how this perception might arise. The next section discusses more about the steps the Commission takes to ensure that any ADR providers that we approve are independent, and remain independent.
- 5.9** Having a large number of ADR providers also increases the possibility of inconsistent practices across the ADR regime. This could mean that customers in one gambling sector, or who use operators signed up to one ADR provider, receive different levels of service or even different outcomes to those signed up to a different ADR provider. It is also very difficult to argue that a provider is effective where they have handled very few or even no disputes.
- 5.10** We note that arrangements are different in other ADR sectors. In the communications sector, for example, the Office of Communications (Ofcom) has approved only two ADR providers. The Civil Aviation Authority (CAA) has approved three ADR providers to settle disputes in the aviation sector, while both the Gas and Electricity Markets Authority (Ofgem) and the Water Services Regulation Authority (Ofwat) each have only one approved ADR provider. This does not appear to disadvantage consumers in any way.
- 5.11** We therefore intend to reduce or limit the number of ADR providers in the gambling sector to make sure that all approved providers receive enough disputes to ensure their effectiveness and expertise. We are also considering steps we should take to ensure that all consumers receive a consistently fair level of service. We will look at how we can improve the existing standards of service and consistency for consumers, and discuss this further in the rest of this section. We will continue to monitor and in the future, if we conclude there has been no improvement, we may consider requiring all operators to use a single ADR provider of our choice. We are aware, though, that this could impact on gambling operators, particularly smaller operators who are not part of a trade organisation, because many operators receive access to an ADR provider through their trade organisation, and will take this into account in our considerations.

How do ADR providers receive approval?

- 5.12** ADR providers must demonstrate that they satisfy a range of conditions in the ADR regulations to receive our approval. These include:
- keeping an up-to-date website with clear and transparent information about the ADR procedure the provider operates, this includes information about the average time taken to complete each case
 - allowing the consumer to submit their dispute online or by post, and to exchange further information electronically
 - having a general understanding of the law and out of court or judicial resolution of consumer disputes
 - ensuring that no ADR official is biased, and that officials are not paid based on the outcome of disputes, nor directly paid by a gambling operator
 - having procedures to ensure no conflicts of interest arise
 - notifying both parties to a dispute once the provider has received all documents that make up the complete case file, and notifying both parties of the outcome within 90 days of that receipt (except for very complex disputes, where the provider may extend the period but must tell both parties the expected completion date)
 - ensuring that parties to the dispute can express their view, providing the evidence and arguments advanced by the other party, and permitting sufficient time for the first party to comment on these
 - informing a party of their right to withdraw from the procedure at any stage, of the legal effect of agreeing to any proposed solution, and that the proposed solution does not preclude the possibility of them seeking redress through court proceedings.

We also added a requirement that ADR entities should and must consider the application of consumer rights legislation, where this is applicable and is at the heart of a dispute. For example, providers must consider unfair terms in disputes.

- 5.13** The ADR regulations also list the following instances in which an ADR provider may refuse to deal with a dispute, where:
- a consumer has not first tried to resolve the dispute with the gambling operator
 - the dispute is frivolous or vexatious
 - the dispute is being considered by another ADR provider or a court
 - the value of the dispute is under a monetary threshold set by the provider
 - the consumer has not submitted the dispute to the ADR provider within the time period the provider specifies (as long as that time period is not less than 12 months from when the operator tells the consumer that they cannot resolve the dispute)
 - dealing with such a dispute would seriously impair the effectiveness of the provider.

How effective are the requirements of the ADR regulations?

- 5.14** We approved ADR providers on the basis that they met the requirements in the ADR regulations. However, one year on, it has become apparent that the requirements of the regulations were written broadly to meet the needs of a range of different sectors. As a result, they do not fully cover all consumer expectations in the gambling sector. For example, the regulations do not require providers to permit contact from consumers by telephone, and very few ADR providers offer any facilities to accept contact via telephone. This includes both raising an initial dispute, or to provide further information or seek an update when a dispute is in the process of being considered. We have some concerns that this may disadvantage consumers who are less able to put their dispute into writing, electronically or otherwise. Indeed, such consumers may sometimes be those who are most vulnerable, and who the gambling licensing objectives are designed to protect.

- 5.15** Similarly, although the regulations require ADR providers to make a decision within 90 days, they are silent on the matter of keeping a consumer updated on the progress of their case within this period. Evidence from our contact centre shows that many consumers grow concerned when they have heard nothing from an ADR provider after some time has passed since they received an initial acknowledgement. Many feared that their case had been lost during the three month period. During 2016 we received 59 complaints from consumers who were worried that they had not had a response from an ADR provider, making up nearly 87%¹ of all contacts we had about ADR providers.
- 5.16** The regulations do not define exactly what constitutes the point of receipt of all documents that make up the complete case file, which triggers the start of the 90 day period. We have learned that not all providers have been interpreting this in the same way.
- 5.17** Once the dispute is with the ADR provider, the provider may contact the gambling operator and the consumer for additional information. Beyond the format, the ADR regulations do not stipulate how this should take place – though the regulations do state that parties to the dispute should have the opportunity to comment on the evidence offered by the other party. The Commission has only seen a small number of ADR cases in any detail, and it would not be right to generalise about all ADR disputes. But we are aware of some instances where the consumer does not appear to have been offered the same opportunity to comment as has the gambling operator before a decision has been reached.
- 5.18** It may be unclear to consumers whether or how they can complain about an ADR provider. In 2016, the Commission received a number of complaints about ADR providers, mostly about time delays and service standards. Very few of the providers appear to have any organisational complaints procedure that a consumer could use. This appears contrary to the generally accepted approach that, in the first instance, the organisation involved in a complaint is in the best place to try to put the matter right.
- 5.19** As noted in paragraph 5.8, consumers have expressed concern that ADR providers cannot be independent if they are chosen or paid for by a gambling operator. Although we have reviewed the governance arrangements and confirmed the independence of all providers as part of the approval process, we can understand why consumers might have this perspective.
- 5.20** These issues lead us to conclude that ensuring ADR providers meet the requirements of the regulations is only part of the picture. Consumers expect service standards that go beyond those in the ADR regulations, and it is easy to understand why consumers become worried when they hear nothing for up to three months. We note that other competent authorities, such as Ofgem, have published [scheme requirements](#) that go beyond those set out in the ADR regulations (for example, including requirements set out in the Corporate, Estate Agents and Redress Act 2007). As competent authority we are therefore looking at increasing approval requirements for ADR providers in the gambling sector. This will form part of a framework we intend to develop for all our ADR provider-related processes. It will ensure that additional standards for service and quality also have to be met alongside the requirements of the ADR regulations, and will include a review of the governance processes and independence of ADR providers. We aim to begin this process in early 2017/18, and will involve ADR providers in our discussions to ensure that our proposals are practical and can be implemented under the current arrangements.

¹ At the start of 2016, the Commission did not have a dedicated complaints category to record complaints about ADR entities. We introduced such classification category in August 2016. The figure quoted in the text is made up of complaints recorded under the new classification, and a manual search of all other complaints over 2016, and therefore may not include all complaints about ADRs that we received.

ADR provider decision making

- 5.21** ADR providers resolve disputes in different ways. Some providers have an individual official who makes the decision. More complex decisions may be made by a panel who consider all evidence collected by a case manager. Some providers offer a mediation service (assisted negotiation to a mutually agreed outcome) rather than an adjudication service in which the provider makes a ruling on the evidence from both parties.
- 5.22** Not all cases referred to ADR providers result in a ruling for either the consumer or the gambling operator. Mediation, for example, aims to arrive at a mutually agreed solution. In other instances, consumers and gambling operators may arrive at an agreement before an ADR provider makes a decision, removing any need for an ADR ruling.
- 5.23** It is likely that in many cases, such agreement can only be reached because of the provider's preliminary work. For example, the ADR provider IBAS reports that 41% of the cases it saw in 2016 were conceded by the operator, either as a good will gesture or as admission of fault, and therefore IBAS made no ruling. As a result, it is impossible to make any real assessment of the quality of an ADR provider's decisions, or any perceived bias, by looking only at numbers of decisions ruled in favour of the operator or the customer.

The quality of ADR decisions

- 5.24** The ADR regulations do not address the quality of ADR decision making. Nor is it the role of the competent authority to assess decisions made by ADR providers, or to overturn these. If a consumer is not satisfied by the decision made by an ADR provider, they have an option to take their dispute to the courts.
- 5.25** As competent authority, however, we do have a role in trying to ensure that decisions made are fair and transparent, that they take account of all appropriate information, and do not take account of inappropriate information.
- 5.26** A consequence of having a large number of ADR providers is the potential for providers to make decisions differently. For example, where providers request different types of information from the operator or the consumer, give different weight to such evidence, or offer different support to permit a disadvantaged consumer to make his or her case will all ultimately impact on the final evidence available, and the decision that is reached. We host twice-yearly roundtables with providers to allow discussion to try to reduce this possibility.
- 5.27** We are particularly concerned with the balance of power in adjudication. While some consumers are familiar with gambling practices and well able to argue their case, others are less familiar. Some consumers are new to gambling, or may not speak English as a first language. Some may have disabilities or vulnerabilities that make it difficult for them to properly make their case. A fair ADR decision making process should recognise, as far as possible, when a consumer may need additional support, and make sure that their processes can accommodate any additional needs that customers may have. This includes explaining requests and reasons for decisions in clear language that is free from jargon.
- 5.28** As mentioned in paragraph 5.20, we aim to provide a framework of additional information and measures to ensure that ADR decisions and services are of a similar standard. This will include requiring ADR providers to give proper regard to the balance of power in decision making. Some other competent authorities provide similar additional information, for example, the Civil Aviation Authority (CAA) maintains a webpage with information relating to the areas of [consumer aviation law relevant to the dispute](#) they would like to see covered. This includes both legislation and guidance about the various areas. Ofgem's previously mentioned [Approval criteria for redress schemes in the energy sector](#) also includes specific areas intended to address access to the ADR scheme and the expertise, independence and impartiality of ADR providers that go beyond the requirements in the ADR regulations. We intend to implement similar guidance and requirements.

ADR provider activity in 2016

- 5.29** All ADR providers published an annual report of their activity in 2016, showing numbers of cases handled, common themes identified and other areas. Providers published their reports on their websites. Appendix 1 shows collated figures from the reports.
- 5.30** The reports show that IBAS dealt with 93.6% of all disputes in the British gambling sector. eCOGRA dealt with second largest number of disputes with 5.2% of the total. The remaining 1.2% of disputes were split over a further six ADR providers. Three providers did not receive any disputes between 1 October 2015 and 30 September 2016.
- 5.31** Figures submitted to us by gambling operators via their regulated information returns showed they referred only 828 disputes to ADR providers during 2016. This figure is nearly 82% lower than the 6,926 disputes that providers report handling. Although the operator reports cover a slightly different time period (that is, 1 January to 30 December 2016), and although some consumers might self-refer to a provider, we expect the figures to be closer. This echoes the concerns raised in chapter 4 that gambling operators may be under-reporting the number of their complaints escalated to ADR, or at least that there may be some misunderstanding about when to make such reports.
- 5.32** ADR providers also identified the main types of disputes they saw over the year. For IBAS the most prolific issues² were:
- terms of bonus or promotional offer
 - disputed bet instructions, or criteria to settle bets/gambling transactions
 - disputed prices of bets
 - customer identity checks
 - late bets.
- 5.33** eCOGRA, the provider who handled the next largest number of complaints, identified disputes related to responsible gambling issues (specifically around people who had excluded themselves from gambling for a period of time), bonus offers and withdrawal of winnings as the main issues they saw. The Commission's contact centre recorded key themes of refusal to pay winnings, misleading offers and refusal to accept identification documents during the period January to December 2016. The similarities in the areas of disputed winnings, identity checks and terms of offers confirm that consumers are particularly concerned about these issues.
- 5.34** Providers also report on disputes they have refused or discontinued, as described in paragraph 5.13. Reports identified that a common reason to refuse a dispute was where the customer had not first used the operator's complaints procedure. This may indicate that consumers sometimes have difficulty identifying the correct procedures to follow. It could also indicate that an operator's procedure was taking a long time, or was not clear.
- 5.35** ADR providers reported that the main reason for discontinued disputes was because they lost contact with the consumer. Providers did not know the reason for the loss of contact, though it may be that the customer had decided not to proceed with the dispute, or had reached an agreement with the gambling operator concerned.
- 5.36** As discussed in chapter 3, ADR providers only look at disputes that involve a gambling transaction. Providers also reported a number of instances where gambling customers contacted them about possible breaches of a gambling licence, which is not something that the provider is currently able to resolve.

² IBAS's figures for the breakdown of complaints include disputes they received from both British consumers and non-British consumers gambling with businesses regulated by the Commission. As the Commission regulates at point of consumption - that is, regulates gambling business who supply to consumers based in Great Britain - non-British consumers would not generally fall under the UK regulated scheme for ADR. However, the topics raised by such consumers remain relevant and consistent with those of British consumers.

5.37 Currently, we only get information about the consumer experience of the ADR process from those who contact our contact centre.³ Paragraph 5.15 discussed how the largest volume of complaints we received were about the time taken to deal with complaints, or the lack of updates. Despite this, all ADR providers reported that the average time they took to complete a dispute was well within the 90 day limit set by the regulations. We have received few complaints about the outcome of ADR decisions, and our role does not include looking at or overturning such decisions.

The wider role of an ADR provider

5.38 The ADR regulations do not define the role of an ADR provider, other than to set out minimum criteria for a provider to be approved by the competent authority. Nevertheless, there is a wider role for a provider to play in terms of helping to improve standards for the consumer across the gambling sector. As well as providing effective resolution for consumer disputes, providers can play an important role in identifying trends and problems in complaints to drive improvements in an entire sector.

5.39 In this first year of operation under the ADR regulations, ADR providers identified some key types of disputes in their annual reports, and made some suggestions how to avoid these. This is a reporting requirement from the ADR regulations.

5.40 Wider than this, IBAS conducts regular meetings with representatives from the online and retail gambling sectors to discuss issues raised. These meetings cover a range of issues, and in these, IBAS offer suggestions that may improve the customer experience, and in some cases, prevent the dispute from arising.

5.41 Some ADR providers also provide information about decisions made or decision trends on their websites. For example, The POGG provides a summary of all decisions made with the reasons for the outcome on their website, and also includes a section focusing on important rulings that may impact on other decisions.

5.42 There is scope, though, for this work to be more developed and become more effective. For example, it would be useful to develop a process for working with ADR providers and gambling operators to develop the recommendations in their annual report, rather than making the report itself the end of the process. Any process would need to ensure that responsibility for action did not rest solely with the ADR provider.

5.43 Providers could also collect and publish more data about the disputes they handle. This could include identifying gambling operators receiving high volumes of complaints, more regular information about emerging complaint trends and more information about how decisions are reached. As noted, some ADRs already publish information about the decisions that they make, but there may be ways in which this could be better brought to the attention of the gambling industry.

Do ADR providers have the resource to take on a wider role?

5.44 ADR providers receive funding via a number of different methods. Some providers are paid by annual fee from gambling operators. Some receive a proportion of the subscriptions paid to a trade body, while others offer an affiliate model that is free to both consumer and gambling operator.

³ Similarly, we have no methods in place to collect consumer feedback on the operator complaints process, or on our own, other than what passes through our contact centre.

5.45 We know that the volume of disputes is increasing. Data from our regulatory returns show that the number of disputes recorded by non-remote operators has increased from 4,548 in 2014 to 11,398 in 2016. For remote operators⁴, disputes have increased from 10,635 in 2015 to 12,100 in 2016. If this trend continues, providers will need to give serious consideration to resourcing to permit them to make decisions to the required standard in coming years. If we require providers to add further value to the sector by collecting, publishing and broadcasting data and findings to drive improvements, they will also need the resource to manage this.

5.46 The next section discusses the Commission's role in the complaints and disputes process in more detail.

Summary

5.47 The main points raised in this section are as follows:

- There are 11 approved ADR providers in the British gambling industry. The arrangement does not appear to offer customers any real choice in ADR provider, and could confuse the landscape for customers.
- The ADR regulations require providers to meet basic standards around transparency, clarity and independence, etc. However, those requirements may not be sufficient to provide service levels that meet customer needs, and need to be augmented with a framework of guidance, standards and measures to improve standards in the gambling sector.
- Such a framework would help providers to make consistently high quality decisions.
- ADR provider reports show that only two providers receive any volume of disputes. Reports show that many customers have not first exhausted the gambling operator's complaints procedure before approaching the ADR provider. This may indicate that clearer signposting of operator complaints procedures is required.
- There is a wider role for the ADR provider to play in driving improvements in the gambling industry. Providers may not be delivering this role to its fullest potential under the current arrangements.

What are we doing?

5.48 In 2017-18 we will look at reducing or limiting the number of approved ADR providers. We will revisit the requirements of the ADR regulations and consider how approval of an ADR provider might be supplemented with a framework of advice and measures to ensure a better experience for the consumer. This will include considering both additional service standards, a review of governance arrangements and independence, and requirements for decision making that make the role of an ADR provider much clearer.

5.49 We will then review the approved ADR providers against the new framework. If providers fail to meet the increased standards, we will work with them to consider whether they wish to make changes to their procedures, or lose their approved status.

5.50 We will consider the wider role of the ADR provider, and set out what added value we expect the ADR scheme to bring to the sector. We will work with ADR providers to determine how best this may be achieved.

5.51 We will also consider other ways of ensuring that consumers are aware of both operator and ADR complaint processes. As discussed in chapter 4, we aim to introduce use of the Resolver web tool to support consumers to raise and resolve issues. We expect this to help consumers to make complaints to the right organisation at the right time.

⁴ Licensing of remote operators changed in late 2014, so the most recent complete data held is from 2015 onwards.

6 The Commission's role in the complaints procedure

6.1 The Gambling Commission is the competent authority for the ADR scheme in the gambling sector. In our regulatory role, we also receive reports from consumers or others about gambling operators that may have breached their British gambling licence.

6.2 Chapter 3 of this paper described complaints and disputes. To recap:

- a 'complaint' is a complaint about any area of the gambling operator's business
- a 'dispute' is any complaint linked to the outcome of a gambling transaction not resolved at the first stage of the gambling operator's complaints procedures.

Complaints to the Commission

6.3 Consumers may refer disputes to ADR providers if not resolved by the gambling operator. Providers can only consider complaints about the outcome of a gambling transaction. If a consumer wishes to report the way a gambling business is being run (for example, if the consumer believes the gambling operator is allowing underage gambling), then they can make a report to us.

6.4 The action that we take in such circumstances depends on the nature of the information we receive. Some information may lead us to conduct a full investigation of a gambling operator, which may take a significant amount of time to complete. We may use other information to add to our existing intelligence about a particular issue. We do not provide updates about how we use the information we receive, though where we take regulatory action against an operator, we make details public once the action is complete.

6.5 We are not an ombudsman or a complaints service, and we do not investigate consumer complaints on behalf of the consumer. In most cases, this does not affect the consumer because their report is about a potential breach of a licence condition rather than about the outcome of a gambling transaction. However, we realise that because of this and because we do not update on investigations, it might appear to people who contact us that we neither act on nor use the information they provide. This may act as a disincentive for consumers to make such reports.

6.6 As discussed in chapter 3, we are becoming increasingly aware that some complaints involve both a possible breach of a licence condition as well as a disputed transaction outcome. It may be difficult for an ADR provider to make a ruling on such a disputed transaction before possible licence breaches have been investigated. In other cases, for example, where there is suspected money laundering involved, there are additional regulations that prohibit any party from alerting a consumer that they may be under investigation.

6.7 The outcome is that a consumer in this situation may find themselves without recourse to the normal ADR scheme to resolve their disputed transaction. The consumer may still choose to take the matter to the courts, but this is an option that is clearly significantly more onerous for the consumer than referral to an ADR provider.

6.8 We have been considering how we can make things fairer for consumers in these situations. Chapter 3 discussed our plans to revisit our definition of the disputes that an ADR provider may deal with, but it may not be possible to widen this sufficiently to capture all possible licence breaches that also have a disputed transaction.

6.9 We consider that we should provide better information to consumers about what we will do when they contact us to make a report. We have recently re-designed our website, including sections about making complaints to operators, raising disputes with ADR providers, and making reports to the Commission. We will revisit this information to include any changes we make to the definitions of what can or cannot be escalated to an ADR provider, and to provide more information about our own work.

- 6.10 Other regulators/competent authorities have set out more detailed, accessible information about their work with complaints and on casework. For example, [Ofwat's Casework Strategy](#) sets out what Ofwat does and does not do in relation to complaints, and how casework feeds into the process. A similar statement from us could help consumers to better understand what to expect from us, and also help ADR providers to provide better information to consumers about when to contact the Commission.
- 6.11 Ofwat also provides information about what it does when it receives a complaint, including the action it takes at each stage and the additional information sources that it uses in making decisions. Again, something similar could aid gambling consumers to see what happens to the information they provide to us.
- 6.12 Finally on this issue, we expect the Resolver consumer support tool to be available to help gambling consumers make complaints in early 2017/18. We will provide information to Resolver which will help the tool to provide the right information to consumers. In particular, the tool will be able to guide consumers to escalate their complaint to the Commission or the ADR provider as appropriate. It will also be able to provide an explanation of why a particular route is the right one, and what the consumer can expect from the escalation.

Complaints about ADR providers

- 6.13 The Commission also receives complaints about ADR providers themselves. Midway through 2016 we identified that the numbers of these complaints were significant enough for us to create a new classification to capture how many we received. When we receive a complaint that, for example, the consumer is awaiting an update from the provider, we may follow up with the provider to ask them to provide this update. In other instances, we may use the information to consider whether the provider continues to meet the standards for approval, in which case we would take action (though we would not undertake to update the customer on any action taken). As already discussed, we do not look at the outcome of a decision made by an ADR provider. If a customer is not satisfied with the decision taken, they have the option of referring the matter to the courts.
- 6.14 As discussed in paragraph 5.18, very few approved providers in the gambling sector appear to have a complaints process designed to accept complaints about their own service. Nor is this required in the ADR regulations. Given that the best outcomes for all parties - in any sector - usually occur when the two parties concerned can resolve issues between them, we consider that ADR providers should have such a policy in place. This should aid consumers who currently contact us to find out information from the ADR provider that the provider could deliver direct. We intend to include this in our revised framework for ADR providers.

Communicating with consumers

- 6.15 In 2016, we launched our plan for communicating with consumers, [A two-way conversation](#). In this we set out our aim to provide better information to consumers, and also to get information from them to help us understand their needs and make better policy.
- 6.16 We think it is particularly important to take account of what consumers want when aiming to improve a complaints service specifically for them. We have used the information provided to us by consumers who have been in touch with our contact centre when developing the proposals in this paper. We would also like to get consumer views on the proposals themselves, and whether they can be improved.
- 6.17 In 2017/18 we will be working to gain further insight into consumer views on gambling more generally. This may involve consumer focus groups, online forums or consumer panels. We may trial some of these methods to seek feedback on this review.

Improving industry standards

- 6.18** Our role is also to support the gambling industry to drive up standards. Information from consumer complaints is important in helping to identify issues that we need to address.
- 6.19** Current evidence suggests that the greatest areas of consumer concern are around misleading terms and conditions, withdrawal of winnings, and identity checks. We are considering what our response to this should be, and developing our approach accordingly. For example, we are currently working with the Competition and Markets Authority (CMA), which is investigating whether online gambling operators are treating consumers fairly. The CMA investigation will also help us provide advice to ADR providers to help them manage disputes that involve unfair terms and conditions, and will look at the length of time some operators give to consumers to file a complaint.
- 6.20** We will continue to investigate areas of concern, provide guidance, or, where appropriate, require gambling operators to meet new conditions (subject to consultation) in order to improve standards in the industry. Improved information will help us to better identify key issues, and take appropriate action. This is why we are aiming to implement improved ways of collecting information, for example, via the Resolver consumer complaints tool.
- 6.21** We will begin to introduce any changes through a programme of work in 2017/18.

Summary

- 6.22** The main points raised in this section are as follows:
- ADR providers deal with disputes about gambling transactions. Consumers can report complaints about operators who may have breached their licences to us.
 - The Commission is not an ombudsman or a complaints service, and does not provide information about ongoing regulatory action taken with a gambling operator. We know that this can act as a disincentive for consumers to make reports to us.
 - We currently receive complaints about ADR providers. It does not appear that providers have processes in place to deal with such complaints themselves.
 - Our proposals in this review are based on information provided to us by consumers. We would like to get more consumer views on the proposals themselves.
 - We are keen to improve the data we collect about complaints to better help us to identify areas of concern and take appropriate action.

What are we doing?

- 6.23** We aim to clarify what we do and the actions we take when we receive a complaint from a consumer. This will help consumers to better understand our role, and will include revised information about what can or cannot be considered by an ADR provider.
- 6.24** We will provide information to the Resolver consumer support tool to help route escalated complaints correctly to either the ADR provider or the Commission as appropriate, and explain to the consumer what the consequences of this may be.
- 6.25** We will build a requirement into our new framework for ADR providers to ensure that each has a complaints handling procedure to deal with complaints against them.
- 6.26** We will develop a mechanism for consumers to feed into our proposals in this paper to help make this the best possible experience for consumers.
- 6.27** We will look at ways to improve data collection across the industry, which may include further use of the Resolver tool to collect data on complaints.

7. Conclusions and next steps

- 7.1** This review of complaints handling in the gambling sector can only go so far. The data we hold on complaints has not allowed us to identify whether the ADR scheme has had a great impact on the sector. It is clear that the number of complaints made has increased since 2014, but evidence indicates that they were high in 2015 as well as 2016. This might reflect the fact that the Commission began licensing online operators outside Great Britain providing services to British customers in late 2014.
- 7.2** It is apparent that a large number of disputes were referred to ADR providers in 2016. The ADR provider IBAS, which received the majority of the disputes, has met with gambling operators and brought to their attention particular issues that are arising, and the way that these might be avoided. At present, there is no evidence on how successful this has been.
- 7.3** The greatest weight of evidence has been the voice of the consumer, many of whom have been directly in touch with us through our contact centre. From the consumer we have learned about the key issues that generate complaints, and where there are delays, inconsistencies and gaps in the information and service consumers receive.
- 7.4** The evidence that we have is incomplete, but it is sufficient to show that the arrangements in place are not delivering the best service for consumers. We are satisfied that both operators and ADR providers need to improve their practices to make the complaints service offered to consumers more consistent and easier to follow, and we will take steps to make this happen. We have also reflected on our own processes, and identified ways to improve our service. Some of these improvements can be implemented quite quickly. Others may take longer to establish, and will be planned into our forthcoming work.
- 7.5** We aim to introduce use of the Resolver consumer support tool to help consumers raise and manage their complaints in the first quarter of the 2017/18 financial year. Once in place, we will monitor how the tool is used, and look at how we can make more consumers aware of it.
- 7.6** Resolver's capacity to capture data about disputes, such as the type of issue raised and whether it is ultimately resolved in favour of the operator or the consumer, is also valuable to us. As Resolver manages the entire complaint from beginning to end, it might be able to provide some of the data that we currently request from operators and ADR providers. Longer term, if enough consumers choose to use the tool, it could ultimately remove the need for some of our existing reporting requirements, and resolve the discrepancies that we have seen in our data. We may therefore, at a later point, consider whether we should require all gambling operators to promote Resolver as the main way of raising a complaint with them. This, of course, would be subject to consultation.
- 7.7** We have set out in this review that we will need to work with ADR providers, and consult with gambling operators in order to implement some of our proposals. We have also stated our wish to seek feedback from consumers on those proposals. If you have comments on any aspect of this review in the meantime, you are welcome to contact us at consumers@gamblingcommission.gov.uk.
- 7.8** The tables below list the proposals described in this review. We are in the process of developing a timetable for introducing the changes, and will begin by collecting feedback from consumers on the proposals.

Commission-specific proposals:

Para ref	Proposal
3.13	Review our definition of the difference between complaints and disputes, and consider whether we can redefine this to ensure more complaints with a transactional element can be considered by ADR providers.
3.15	Review the information on the consumer rights section of our website in light of the above review of our definition.
3.16 4.31 5.51 6.24	Facilitate the introduction of the consumer support tool Resolver to help consumers make complaints in the gambling sector. This includes providing the correct information to Resolver to allow it to properly direct consumers to the most appropriate method of handling their complaint.
4.31 6.27	Consider whether longer-term, Resolver might be able to provide a solution to collecting data on complaints and disputes across the industry.
6.23	Clarify on our website what we do and the actions we take when we receive a complaint from a consumer.
6.26	Develop a mechanism to gather consumer feedback on the proposals in this review.

ADR related proposals:

Para ref	Proposal
3.14	Work with ADR providers to implement our revised definition of complaints and disputes to ensure providers can deal with more complaints.
5.48	Reduce or limit the number of approved ADR providers, and revisit the requirements of the ADR regulations and supplement approval of an ADR provider with a framework of advice and measures to ensure a better experience for the consumer. This will include considering additional service standards, a review of governance arrangements and independence, and requirements for decision making that make the role of an ADR provider much clearer.
6.25	Build a requirement into our new framework for ADR providers to ensure that each has a complaints handling procedure to deal with complaints against them.
5.50	Consider the wider role of the ADR provider, and set out what added value we expect the ADR scheme to bring to the sector. We will work with ADR providers to determine how best this may be achieved and build this into the new ADR framework.
5.51	Review approved ADR providers against the new framework. If providers fail to meet the increased standards, we will work with them to consider whether they wish to make changes to their procedures, or lose their approved status going forward.

Gambling operator related proposals:

Para ref	Proposal
4.28	Revisit the information we provide to gambling operators about when and how to record and report on complaints and disputes as part of their regulatory returns.
4.28	We will also look more closely at the reports that operators submit to us, and take action where these appear to be inaccurate.
4.29	Consider making changes to licence conditions to require complaints policies to be more visible and more effective. We will consult on any proposals for change before implementing them.
5.50	Consider whether there are short term improvements that we can make to improve methods of collecting data on the outcomes of disputes referred to an ADR provider.

Appendix 1 ADR providers annual report data and breakdown of issues encountered

ADR entity	Disputes received	Issues frequently leading to disputes	Improvements needed	Disputes refused	Disputes discontinued for operational reasons	Average time taken to resolve disputes (days)	Rate of compliance	Cooperation within cross-border disputes
ADR Group	0	n/a	n/a	n/a	n/a	n/a	n/a	n/a
BACTA ADR services	21	<ul style="list-style-type: none"> Machine malfunction Bingo callers not hearing players 	<ul style="list-style-type: none"> Operators to share relevant machines data with customers Operators reminded to thoroughly investigate complaints before referring to ADR provider 	0	<ul style="list-style-type: none"> 7 (19%) operator complaints procedure not exhausted 9 (24%) not operator's authorised ADR entity 2 (9%) not about outcome of gambling transaction 1 (5%) regulatory issue 1 (5%) customer stopped communicating 	26	100%	n/a
Centre for Effective Dispute Resolution (CEDR)	19	<ul style="list-style-type: none"> Unclear terms and conditions 	<ul style="list-style-type: none"> Clear terms and conditions in plain English, brought to the customer's attention from the start 	4	<ul style="list-style-type: none"> 21% - did not fall within scope of CEDRs Scheme Rules 	31	n/a	n/a
eCOGRA	359	<ul style="list-style-type: none"> Regulatory issues, specifically self-exclusion 	<ul style="list-style-type: none"> Customers guided to complain to the correct body 	98	<ul style="list-style-type: none"> 4% discontinued at customer request or where customer stopped communicating 	28	n/a	n/a
IBAS*	6486	<ul style="list-style-type: none"> Remote casino bonuses Bets placed after start of race Identity checks Unclear rules and promotional terms 	<ul style="list-style-type: none"> Software that does not allow players to breach bonus conditions; Retail operators to display the cut-off for bets to be placed Relevant rules & requirements displayed during sign up Action taken against operators in breach of advertising licence conditions 	1086	<ul style="list-style-type: none"> 696 	31	99.9%	n/a

Jennifer Gallagher (Lindsays)	1	n/a	n/a	n/a	• 1	n/a	n/a	n/a
National Casino Forum – Independent Panel for Casino Arbitration	32	n/a	n/a	28	87%	30	100%	n/a
ThePOGG.com Ltd	7	<ul style="list-style-type: none"> • Maximum bet restrictions • Restricted games • Self exclusion restrictions 	<ul style="list-style-type: none"> • Software to prevent breach of maximum bets • Prevent access to restricted games when playing a bonus • Provide a list of related companies that are included in any self-exclusion 	2	29%	21.5	100%	n/a
Tattersalls Committee	1	• n/a	• n/a	0	n/a	28	100%	n/a

* IBAS also dealt with 1124 cross-border disputes

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