

## **The prevention of crime associated with gambling**

**Amendments to licence conditions and codes of practice  
(LCCP) for all operators**

**Responses**

**May 2016**

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## Foreword

The conclusion of this review represents a significant step in improving and embedding our overall regulatory approach. It introduces a new consolidated principal anti-money laundering requirement as the most significant change (chapter 4). This will require licensees to assess and manage the risks of their business being used for money laundering and terrorist financing. The final provision focuses on the outcome we expect operators to deliver.

We think that the most effective regulatory approach is to focus on the outcomes we expect operators to achieve. In some areas we specify particular rules or processes, but where possible, we aim to allow licensees to take differing approaches to meet our requirements. This includes using rapidly developing technological tools and data analytics.

The Commission has a very clear ambition to see the gambling industry apply the intellect, expertise, technology and data that it brings to product and market competition, to preventing crime and demonstrating social responsibility. We challenge operators to show how they use data gained through a variety of channels and products to give insight into consumer behaviours and effectively manage risk.

We recognise that many of the operators we license are comparatively small in scale. However the principle of using reliable data to make policy and operational decisions to protect the licensing objectives applies to all licensees regardless of size.

### Anti-money laundering

A key focus of this review has been the anti-money laundering provisions within our *Licence conditions and codes of practice* (LCCP).

In April 2016, the Home Office and HM Treasury jointly published [Action Plan for anti-money laundering and counter-terrorist finance](#). The action plan sets out the government's key priorities on anti-money laundering law enforcement, the supervisory regime and international activity. Critically, the action plan emphasises the need for a new way of working with the private sector. The report states that 'too much resource at present is focused on dealing with regulatory compliance, and too little is focused on tackling financial crime risk'. We consider that our outcomes based approach aligns with this goal in the wider anti-money laundering regulatory environment. We do not see a reduced requirement for licensees to assure themselves that their policies and procedures are effective and reflect understanding of the risks they face.

During our consultation, the Government also published the first [UK national risk assessment of money laundering and terrorist financing \(NRA\)](#). This is a relative assessment that places the gambling industry overall as low risk in comparison with other, much larger regulated sectors such as the banking and accountancy sectors. The NRA notes that money laundering may still occur in low risk sectors at a significant level. It also assesses compliance with the provisions of anti-money laundering (AML)/counter terrorist financing (CTF) legislation and regulation as a vulnerability factor. Gambling sectors therefore still need to invest significant effort to identify and address the threats and their vulnerabilities.

We have reviewed and taken account of the responses to our proposals. We have also reflected on the best way to enable operators to take responsibility for delivering outcomes by tailoring their approach to the particular circumstances of their business and customers.

As a result, a number of the proposals of our original consultation have been consolidated into a new **principal requirement** that operators must use the information available to them to assess and manage the risks of their business being used for money laundering and terrorist financing. In meeting this requirement, we expect operators to take account of a number of factors:

- Different businesses will adopt different approaches, depending on their scope, scale and business models. Family Entertainment Centres (FECs) will face different issues to land-based betting shops, which in turn will differ from licensees providing both on-line and land-based sports betting to British consumers. The new requirements enable this, requiring a more bespoke assessment of risk particular to the business and the consumer, rather than relying on a one-size-fits-all or tick box approach.
- The nature of risks and threats changes over time, and approaches to collecting and analysing information are developing quickly. Our focus on an outcome and risk-based approach places a premium on the need for a continuous process to consider these, learn and adapt.
- Over time, we expect to see greater use of data management strategies and deployment of technology as a way of identifying and managing licensees' AML/CTF risks as well as meeting their social responsibilities.
- Our outcomes based approach puts an increasing emphasis on the need for licensees to evidence their decision-making processes, and to be accountable for managing available information. This will help to assure the Commission that the licensee is serious about assessing, managing and mitigating risks. This evidence base will also be important to ongoing compliance work and in future enforcement cases.

Our consultation also invited views on the information relating to key events that operators should capture and report to the Commission, particularly on reporting criminal investigations linked to gambling. We will review information and key events reporting requirements further later in the year as part of a wider review of regulatory data reporting. This will consider how collecting information around, for example, police call outs to gambling premises might be useful to help meet social responsibility requirements.

We expect to support the new requirements with updated guidance where appropriate, engagement with trade bodies and law enforcement agencies, ongoing compliance activity and where necessary, through enforcement action.

Finally, we would like to thank respondents to the consultation and people who attended workshops for their participation. Your views provided us with many insights and constructive challenges.

## Summary of changes to LCCP following the consultation

Below is a summary of the changes to LCCP following this consultation, although we recommend that you refer to the provisions set out in this document. The changes will come into effect in autumn 2016.

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<b>Assessment of AML risk</b>	<b>New licence condition</b> requiring all licensees to conduct an appropriate assessment of AML risks to their business, take account of this assessment to develop appropriate policies, procedures and controls, and implement them effectively. The AML assessment must be updated in the light of changes and reviewed at least annually.
<b>AML regulations &amp; remote casino licensees</b>	<b>New licence condition</b> for remote casino licensees with gambling equipment located outside GB requiring them to comply with AML regulations (replacing the individual licence condition written into the licence of each relevant operator).
<b>Reporting criminal investigations</b>	<b>New key event</b> requiring licensees to report their involvement in criminal investigations where we could reasonably be expected to question that they had taken sufficient steps to keep crime out of gambling.
<b>Cash handling</b>	<b>Amendment/ clarification to existing licence condition</b> requiring licensees (including remote) to have and put into effect appropriate cash handling policies.
<b>Misuse of inside information</b>	<b>One new ordinary code and one addition to an existing ordinary code</b> stating that all betting licensees should have employee policies to prevent the misuse of inside information.

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# 1 Introduction

- 1.1 In September 2015, the Gambling Commission (the Commission) published for [consultation](#) a number of proposals aimed at strengthening the provisions relating to the prevention of crime associated with gambling in our *Licence conditions and codes of practice* ([LCCP](#)).
- 1.2 We have a duty to permit gambling so long as it is reasonably consistent with the three licensing objectives set out in the Gambling Act 2005 (the Act). The particular focus of this consultation was the first licensing objective: keeping gambling free of crime and from being associated with crime. In the ten years since the introduction of the Act, we have collected evidence and developed our understanding of how crime manifests itself in gambling in Great Britain. Using the evidence from our casework, we looked at how we could improve our regulatory tools to manage risks, support good practices and tackle poor practice more effectively.
- 1.3 Our proposals for improvements were made against the backdrop of the European Union 4<sup>th</sup> Anti-Money Laundering Directive (4<sup>th</sup> AML Directive). The 4<sup>th</sup> AML Directive is due to be transposed into law by June 2017. Some respondents to our consultation argued that our proposals should be postponed until more was known about the new requirements under the 4<sup>th</sup> AML Directive. We understand that licensees may be concerned about the possibility of reviewing their processes once again next year. However:
- a review of the evidence showed that our regulatory tools were not as effective as they should be, and did not provide the full flexibility we require in order to pursue regulatory procedures rather than criminal sanctions wherever possible (which we commit to in our [Statement of principles for licensing and regulation](#)). This leaves operators at greater risk of criminal sanction when regulatory review would be more appropriate.
  - we are satisfied that the changes we are implementing will not be at odds with any requirements under the 4<sup>th</sup> AML Directive.
  - the measures we are implementing will strengthen anti-money laundering controls across all sectors of the gambling industry. Under the 4<sup>th</sup> AML Directive, member states may exempt certain providers of gambling services (in full or in part) where they are able to demonstrate proven low risk, following an appropriate risk assessment.
- 1.4 As discussed in the foreword, during the period of our consultation, the Government published the first UK national risk assessment of money laundering and terrorist financing. There is no direct read-across from the NRA to considerations under the 4<sup>th</sup> AML Directive – although gambling has been assessed as low risk in the NRA, it does not automatically follow that any or all gambling sectors will be exempted from the Directive. We are satisfied that our strengthening of money laundering controls in the gambling sector is therefore justifiable and will support the gambling industry to be better prepared for future developments.
- 1.5 Many respondents to the consultation and people who attended workshops during the consultation period called for us to make licence conditions as clear as possible and to provide advice and guidance on implementation to ensure operators know how to meet the new requirements. To address these concerns, we have refined the provisions to make them clearer where possible. We will provide additional clarity on our expectations and high level advice via this response to the consultation and other methods, and will work with gambling trade associations to discuss how best to provide advice for different gambling sectors.

## 2 Background

### The consultation

- 2.1 The [consultation](#) was published on 30 September 2015. The consultation period lasted just over twelve weeks, closing on 30 December 2015. We received a total of 30 formal written responses. We have provided a list of the respondents to the consultation in Annex A and the non-confidential responses are available in full on our website.
- 2.2 We received written responses from 14 operators, 11 trade associations, one campaign group, one sports governing body, one e-gaming services provider, one sports betting group and one anti-money laundering consultant. As well as the written responses, we have taken account of comments made during a series of stakeholder meetings and workshops held between October and December 2015.

### Licence conditions and codes of practice (LCCP)

- 2.3 LCCP is a key part of the framework by which the Commission upholds the licensing objectives as set out in the Gambling Act 2005. We first published LCCP in 2007 and last made significant revisions in 2015, as part of [Strengthening Social Responsibility](#).
- 2.4 However, LCCP is only part of the overall architecture of gambling regulation. It is not a standalone checklist for the industry to follow, nor is it a maximum standard to achieve. The Act sets out a range of statutory requirements and associated regulations, and ultimately, the key test of how seriously a licensee takes its responsibilities is the extent to which it pursues the licensing objectives:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - ensuring that gambling is conducted in a fair and open way
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.

### Implementation of amendments to LCCP

- 2.5 The amendments set out in this response will come into effect later in 2016. We will publish the revised LCCP later in the year, incorporating the changes from this and from other consultations (such as the [Controlling where gaming machines may be played](#) consultation) at the same time. We will also publish further relevant LCCP documents, such as sector-specific extracts of LCCP, which will be updated and published on our website.
- 2.6 We will conduct two short supplementary consultations. These are:
- the wording of the new requirement to prevent adverts for licensed operators from appearing on websites providing access to unauthorised content (having established the principle in this review)
  - extending the requirement to assess the risks associated with money laundering to the non-remote lottery sector.

### 3 Provision of information to the Commission about gambling-related crime

- 3.1 We are aware that operators are sometimes unsure which crime-related events they should report to the Commission.
- 3.2 Instead of finding out about such events from operators, we frequently obtain information through other means such as media, police or law enforcement agencies, or other third parties. When we have followed up on these reports, investigations have revealed significant failings on the part of licensees in pursuing the licensing objective of keeping crime out of gambling.
- 3.3 This means that reports we receive are inconsistent. For example, media coverage is more likely to focus on an incident involving a larger operator than on a smaller operator, so the likelihood of the incident coming to the Commission's attention is not the same.
- 3.4 In order to help level the playing field in this area we consulted on introducing a new requirement for licensees to report to us information about gambling-related crime that potentially has an impact on the licensing objective. This information will help us to take consistent, proportionate and risk-based decisions.

#### Consultation proposal

- 3.5 We proposed an addition to licence condition 15.1, reporting key events. This would require licensees to report any criminal investigation where the licensee or the licensed facilities were involved, and where it was apparent that there was a failing in the licensee's measures to keep crime out of gambling. We made this proposal to ensure all licensees had a responsibility to report to us where their controls had failed.
- 3.6 Our reporting requirements have an impact on licensees and we are aware that not all crimes impact on the licensing objective. We therefore asked some supplementary questions about the most proportionate and effective way to balance our reporting requirements with potential regulatory burden.

#### Consultation questions

- Q1. What are your views on the introduction of an additional 'key event' obliging operators to provide information to the Commission about investigations of crimes committed against them, crimes committed by their staff or crimes committed using their gambling facilities (for example, spending or laundering the proceeds of crime)?
- Q2. For operators, what information about gambling-relating crime does your organisation already record centrally, and in what form?
- Q3. What are your views on the most proportionate way to ensure that the Commission is provided with information about gambling-relating crime in a way that strikes an effective balance between the need for this information and the regulatory burden that providing it would impose?
- Q4. Do you consider the proposed wording above to be sufficiently clear on what kinds of gambling-related crimes the Commission would expect to be provided with information about? If not, what wording or additional guidance would be helpful?



## Respondents' views

- 3.7** Even though a number of respondents supported the proposal, they had concerns about how, practically, to meet it. Many respondents felt that the proposed licence condition was not clear enough for them to understand fully what licensees should report, and some were concerned that licensees would be required to report every criminal investigation of which they became aware. A small number of respondents were concerned that licensees might err on the side of caution and report investigations of no interest to the Commission, thus over-reporting. A common theme in responses to this section was a call for clarity in what and when to report, and for guidance and case studies to support the requirement.
- 3.8** Some respondents considered that applying the requirement wider than the casino, betting and remote gambling sectors, which they felt were higher risk for criminal activity than other gambling sectors, was not proportionate or appropriately risk-based.
- 3.9** A number of respondents suggested that the proposal duplicated requirements to report on Suspicious Activity Reports (SARs) under the Proceeds of Crime Act (PoCA), and requirements under other regulatory regimes, for example, violent crime as a matter for the health and safety regulatory regime. Some respondents called for greater information sharing between regulatory and security agencies in order to reduce duplication and ensure consistency of information.
- 3.10** Some respondents noted that the Commission's key events portal can be time consuming to use, suggesting the information could be reported as part of regulatory returns instead.
- 3.11** Licensees provided a range of responses about the information they already collect on criminal incidents and investigations involving their premises. In the main, licensees said these are collected centrally. Some respondents felt that additional reporting of these events to the Commission as well as for their own purposes would be unnecessarily burdensome.

### The Commission's position

**We are introducing the requirement to report criminal investigations in which the licensee is involved and where the Commission might reasonably be expected to question whether the licensee's measures to keep crime out of gambling had failed. We will add this requirement as a key event in licence condition 15. We have clarified the requirement following consultation and provide further advice on how to meet the condition in Annex C.**

**Later this year, we will conduct reviews of key events requirements and processes to identify possible improvement and simplifications. We will also assess whether to include a requirement to report numbers of violent incidents/police callouts in our upcoming review of the Regulatory Returns.**

We do not consider it necessary or proportionate for operators to report to us every incident of crime, for example, where they are minor and/or unrelated to the protection of consumers or the licensee's integrity. However, we do need information about criminal investigations to ensure that both we, and licensees, are working effectively to keep crime out of gambling, and from being associated with gambling. We consider that this licence condition will serve to raise standards across the industry. We intend that it will help to address the concern, raised repeatedly during the consultation workshops, that licensees that apply high standards are at a commercial disadvantage compared with those with lower standards. We will need information about incidents that licensees identify as soon as practicable. It would not be appropriate to provide this information through Regulatory Returns.

We consider that any matter serious enough to give rise to a criminal investigation could *potentially* demonstrate a failure to take reasonable steps to meet the licensing objective or a breach of a licence condition, and therefore thresholds would not be appropriate.

We wish to make clear that the fact that the reporting triggers are met (that is, there is a criminal investigation **and** there could be grounds for us to question whether the required measures to keep crime out of gambling had failed), will not automatically result in regulatory action or sanctions.

Responses from a number of licensees in the course of the consultation suggest there is a widespread misconception about our approach in this area. To clarify, when we become aware of cases in which the proceeds of crime were spent on gambling, and/or where there may have been money-laundering, we will want to understand what steps the operator took in terms of due diligence to establish the source of the customer's funds. Provided the operator can show that it made appropriate checks and there are no indications of any failings on the part of the operator, we would not necessarily look to take further action.

However, these are serious matters. 'Know Your Customer' (KYC) and due diligence are key principles underpinning gambling regulation. It will be important for the operator to evidence their consideration of the threat posed by its customers, the strategies, policies and procedures in place to effectively mitigate risk and how these have been used to support reasonable decisions taken in particular circumstances, if there is to be no further action by the Commission. It is important to note that we have seen cases in which police investigations were conducted and did not result in charging customers with criminal offences, but nonetheless highlighted significant due diligence failures on the part of licensees, and as such we took action. We will continue to decide on the case for regulatory action according to the circumstances of the case in question and based on the evidence.

Several respondents suggested the Commission could take a more active role in collating and sharing intelligence to help operators to manage crime-related risk, for example, by acting as an intelligence-sharing hub, holding information and sharing it with licensees to help them make decisions about risks posed by individual customers. There are some circumstances in which we do facilitate the sharing of intelligence - such as the work of the Sports Betting Intelligence Unit. However, we do not envisage the Commission would take on a role in managing risks or making decisions in relation to individual customers for all AML or other crime-related risk.

Equally, we would not criticise an operator for not considering information to which it could not have access. However, we expect operators to take reasonable steps to use available information to manage risk relating to customers. This might include, where appropriate, asking customers for information about the source of the funds they are gambling, monitoring spending patterns and undertaking 'know your customer' (KYC) or due diligence checks directly or through professional third parties.

We will be reviewing our key events requirements later this year to make processes simpler where possible. We intend to provide guidance on completing key events as part of that review. In the meantime, licensees should consider this consultation response, and the advice contained in Annex C, as our advice on how to apply the new licence condition.

We will also be reviewing our Regulatory Returns requirements later this year. As part of this, we will consider whether to require licensees to provide information about crimes not covered by this requirement, for example, police call-outs to premises. Such information may be useful to us in terms of social responsibility considerations.

### **New addition to licence condition 15.2.1**

#### **Reporting key events**

#### **All operating licences**

**19(b)** Any criminal investigation by a law enforcement agency in any jurisdiction in relation to which:

- the licensee is involved (including, but not limited to investigations of crimes allegedly committed against the licensee or involving the gambling facilities provided under the licence), AND
- the circumstances are such that the Commission might reasonably be expected to question whether the licensee's measures to keep crime out of gambling had failed.

Notification of the event must occur as soon as practicable after the licensee becomes aware of any such investigation in which the licensee is involved and measures may have failed.

## 4 Anti-money laundering

4.1 Measures to control anti-money laundering, by which we mean, for example, possession, transfer, concealment or conversion of criminal funds (washing) and the use of criminal funds for gambling, are key components in keeping crime out of gambling. Our casework and our engagement with the industry have shown us that our regulatory tools, and the industry's controls, could be stronger in this area.

4.2 In the consultation, we therefore proposed a number of new licence conditions and changes to existing conditions to make them more effective. We also sought views on a number of other proposals, including a new edition of our anti-money laundering guidance for non-remote and remote casino operators.

### Consultation proposal: Assessing money laundering risk

4.3 We expect all licensees to have in place policies and procedures to manage risks to their business – indeed, such policies are the starting point for any successful business. For licensed gambling operators, risks to their business include regulatory risks such as money laundering.

4.4 To develop policies to combat money laundering, licensees will need to begin by identifying the threats experienced or likely to occur and their possible impact. They will need to consider whether or where their existing controls are vulnerable to being circumvented or inadvertently facilitating those posing the threat. It is from this or a similar approach that we believe licensees will be able to better understand the options and controls that they have available. We proposed to introduce a new licence condition requiring operators to conduct and review assessments of money laundering risk, and devise action plans to manage them.

4.5 We intended this assessment of money laundering risk to be a tool for licensees to use in managing their businesses. As a result, we did not propose any regular schedule by which the Commission would want to examine the assessment, other than on demand as required.

### Consultation questions

Q5. Do you agree that it should be a condition of an operator's licence that they undertake an assessment of money laundering risks?

Q6. If you are an operator, do you already undertake a money laundering risk assessment or would the proposed licence condition require significant additional work?

Q7. Do you have any comments on the draft addition of the licence condition requiring licensees to conduct and review money laundering risk assessments, and devise an action plan to mitigate the risks?

### Respondents' views

4.6 The majority of consultation respondents supported the principle of this proposal, with certain practical caveats. Many licensees stated that they already carry out a similar assessment. A small number considered that the current processes a licensee might have in place, for example, training staff to report suspicious activities to the Money Laundering Reporting Officer (MLRO) were sufficient.

4.7 Respondents pointed out that an assessment of risk might, dependent on the nature of the business and business model, reveal only negligible risks that would require little or no mitigation. Some respondents also suggested the Commission should have regular oversight of such an assessment to be able to assess levels of risk and share best practice

amongst the industry. One suggestion was for the Commission to grade assessments to determine whether they needed improvement.

- 4.8** Some respondents were concerned that this proposal was disproportionate and would create substantial extra work for sectors of the gambling industry they perceived as low risk for money laundering, such as lotteries. They suggested introducing this condition before the 4th AML Directive was transposed into law was premature. Some stated it would have been helpful if the Commission had published its own assessment of money laundering risk before the consultation began.
- 4.9** Some respondents suggested the Commission consider mandating risk assessments for business to business (B2B) suppliers of gaming machines in order to help encourage risk-aware product development. This, they argued, would aid business to customer (B2C) licence holders by providing the opportunity to choose between products based on the effectiveness of risks and controls.
- 4.10** As in other areas of the consultation, there were strong calls for guidance, advice and templates to aid licensees, particularly smaller operators in completing assessments. Respondents were particularly concerned about how to ensure that assessments met Commission requirements, and whether those requirements would align with existing processes where licensees already had those in place.
- 4.11** Practical considerations included, for larger operators, whether risk assessments were required at premises level or at business level. Respondents asked how this assessment might link to the new requirement for local risk assessments.

### **The Commission's position**

**We are introducing a consolidated principal anti-money laundering requirement following consultation. This will require licensees to assess and manage the risks of their business being used for money laundering and terrorist financing. The final provision focuses on the outcome to be delivered by operators.**

We do not agree that this requirement is disproportionate for some sectors. A risk assessment is widely seen as the foundation of any system to manage and prevent money laundering. It is central to meeting AML obligations because it will assist in developing effective and proportionate procedures and controls for prevention. We therefore consider it appropriate, and good business sense, for all licence holders to assess properly the risks to their business.

Without such assessment, operators cannot demonstrate they have given sufficient consideration to potential risks in order, for example, to be able to rate them as 'low'. The assessment should reflect the nature of the business and the associated risks, rather than being a one-size-fits-all exercise. We have removed elements of prescribed activity from the licence condition in keeping with our outcome-focused and risk-based approach, our conviction that licensees are best placed to identify risks to their business, and to ensure the condition remains proportionate. In doing this we aim to emphasise that we are interested primarily in the outcome we want licensees to achieve, that is, that they should conduct an effective assessment of money laundering risks to their businesses, and develop and implement effective policies, procedures and controls in order to manage these risks and ensure gambling is not used for the purpose of laundering money or other criminal activity.

We intended that the nature of the assessment should be proportionate and appropriate to the size, business model and nature of the licensee, and are pleased to hear respondents echo this. Where an assessment reveals low risks, plans and procedures to mitigate these will be correspondingly proportionate.

We note calls for guidance and templates to help licensees carry out the assessment. This response to the consultation, confirms our position regarding the assessment of risk by licensees. We will be publishing our own anti-money laundering risk assessment later in the year, which may provide some assistance to licence holders in terms of their approach.

We have updated our guidance for remote and non-remote casinos, which we consulted on as part of this review, and aim to publish this shortly after this consultation response. We will update our Proceeds of Crime Act advice note for all other operators to reflect the principles of the assessment of risk. We will continue to work with trade associations, who will be able to provide further support for their members, which may include assessment templates. We do not intend to provide templates ourselves, because:

- we do not want to prescribe a one-size-fits-all approach that does not recognise how the nature and scale of risks will vary from licensee to licensee
- many licensees indicated that they already carry out an assessment of money laundering risk for their business. We consider that licensees are best placed to know and identify the risks to their business model, and the existing assessments that operators conduct may be entirely fit for their businesses.

In determining how to assess the risk to its business, a licensee may decide to conduct the risk assessment at business level rather than at premises level if it appears reasonable and appropriate, for example, if risks across all premises appear to be similar. Licence holders may wish to consider reviewing certain individual premises by exception if they appear to pose a higher risk than other premises, or where customer demographic differs.

As the assessment is a tool for use by the business itself, it is for the licence holder, not the Commission, to review the assessment. We may ask to see the assessment as part of standard compliance monitoring, or in the event of a money laundering problem occurring, but we do not intend licence holders to submit it to us, for example, on an annual basis.

## **New licence condition**

### **12. Anti-money laundering**

#### **12.1 Prevention of money laundering and terrorist financing**

##### **All operating licences except [non-remote lottery]<sup>1</sup> gaming machine technical and gambling software licences**

- 1** Licensees must conduct an assessment of the risks of their business being used for money laundering and terrorist financing. Such risk assessment must be appropriate and must be reviewed as necessary in the light of any changes of circumstances, including the introduction of new products or technology, new methods of payment by customers, changes in the customer demographic or any other material changes, and in any event reviewed at least annually.
- 2** Following completion of and having regard to the risk assessment, and any review of the assessment, licensees must ensure they have appropriate policies, procedures and controls to prevent money laundering and terrorist financing.
- 3** Licensees must ensure that such policies, procedures and controls are implemented effectively, kept under review, revised appropriately to ensure that they remain effective, and take into account any applicable learning or guidelines published by the Gambling Commission from time to time.

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<sup>1</sup> We will conduct a short supplementary consultation on whether to extend this requirement to non-remote lotteries.

## Consultation proposal: Due diligence checks on customers

- 4.12** Evidence from our casework indicates that licensees often do not make sufficient enquiries about their customers, nor take adequate measures to establish customers' source of funds. This is particularly relevant where a licensee's initial assessment of the customer indicates that they may present a higher money laundering risk than other customers.
- 4.13** To address this we proposed a new licence condition requiring licensees to identify and monitor customers who present a higher, or heightened, risk of money laundering, in accordance with their assessment of money laundering risk.

### Consultation questions

- Q8. Do you agree that identifying customers is an important measure to manage heightened money laundering risks presented by specific customers?
- Q9. Do you have any comments on the draft addition of the licence condition requiring licensees to identify customers where there is a heightened risk of money laundering and to satisfy themselves about the legitimacy of the customers' funds?

### Respondents' views

- 4.14** Respondents were broadly in agreement with this proposal in principle and in some cases pointed out such activity is already commonplace in the casino and remote sectors. However, there were concerns about practical implications of the proposal as a requirement, for example, whether it required licensees to monitor all of their customers, how to implement it in the absence of account-based play, and what 'identify' meant in this context. Respondents pointed out that customers might decline to provide information because they were unwilling to compromise their privacy rather than because they were engaged in illegal activity. There were calls for support in how to achieve a balance between risk and commercial interest.
- 4.15** Some respondents stated that there were challenges involved in identifying customers even where loyalty schemes existed, and take-up of such schemes was insufficient to enable licensees to monitor all customers.
- 4.16** Respondents were also concerned about some of the terms in the proposed licence condition, such as what they would need to do to 'satisfy themselves' of the customer's source of funds, and what might constitute a 'heightened risk of money laundering'. Some respondents considered that they could define these actions as part of the risk assessment requirement in the previous section, with customer checks of this nature forming one of the discrete steps involved in managing and mitigating risks. As a result, these respondents felt there was no need for a separate licence condition on this.
- 4.17** A small number of respondents felt this proposal was not proportionate or appropriate to apply to sectors such as bingo and Adult Gaming Centres (AGCs). They perceived risks of money laundering to be lower, and technology and the ability to track customers less evident in these sectors. Some also voiced concerns that the proposal would prematurely subject the land-based betting sector to money laundering regulations before the requirements of the 4th AML Directive were fully understood. Others argued that the requirements of PoCA, which all licensees should comply with by virtue of LCCP ordinary code provision 2.1, already addressed this issue.
- 4.18** Some respondents pointed out that licensees might adopt different practices and thresholds that could result in subtle commercial distortions – that is, customers moving from one operator to another because of a company operating different thresholds. One respondent called on the Commission to join an industry group looking to develop and share best practice.

## The Commission's position

**Instead of separately specifying requirements for due diligence checks, we have embedded the requirement to identify and deliver necessary due diligence in the principal anti-money laundering requirement to assess and manage risk (see previous section).**

We consider that it is for the licence holder to determine the money laundering risks to its business and as part of that, whether there are specific customers or types of customers that pose a greater threat. We also accept that due to their business size or model or the nature of their customers, some licensees may find few or no customers that might constitute a 'heightened risk'.

Our revised guidance for remote and non-remote casinos provides information that will assist licence holders to consider customer due diligence when assessing risks to their businesses. We will also be updating our PoCA advice for all other operators with principles of how to undertake risk assessments. This will include advice on the factors that licence holders may wish to or need to take into account, including customer risks.

## Consultation proposal: Customer monitoring across products and platforms

- 4.19** Our casework has shown that licence holders find it hard to recognise and link information relating to the same customer carrying out gambling activities in different areas of the business. We accepted that this was a challenging area, but considered that monitoring and linking customer information across different gambling products and platforms where possible would provide operators with a more comprehensive picture of the money laundering activity they may face.
- 4.20** We proposed a new ordinary code provision that, consistent with their assessment of money laundering risk, operators should monitor customer activity across the licence holder's different products and platforms.

## Consultation questions

- Q10. Do you agree that, in order to have a comprehensive picture of customer risk, it is necessary to monitor customers across all the operator's outlets, platforms and products?
- Q11. Do you think that an ordinary code provision is necessary to address this need?

## Respondents' views

- 4.21** Many respondents were concerned that while this proposal was desirable, practically it would be difficult, if not impossible to achieve. Some respondents pointed out that although they grouped their various businesses under a corporate umbrella, the businesses actually ran independently and separately in the majority of operational aspects. While they aspired to a single customer registration system, neither the systems nor the technology to permit it was yet in place.
- 4.22** Other respondents pointed out that there is no requirement for customers to register accounts to play, for example, in the AGC and FEC sectors. Nor have loyalty schemes been widely adopted in such sectors. Respondents argued that this made such a requirement almost impossible for them to achieve, and therefore disproportionate to such sectors of the industry.
- 4.23** Some respondents agreed that where they identified a customer as a higher risk, they would make particular effort to track their activities across all the products and platforms they offered. However, it would be disproportionately difficult to make this same effort for every customer.

- 4.24** Respondents also raised concern that sharing personal customer information across different areas of a business could breach data protection laws. Others argued that the only way to gather a comprehensive picture of a customer’s activities would be to monitor them across all operators, making data sharing even more difficult to achieve.
- 4.25** In contrast, one respondent pointed out that it is important that licence holders communicate with each other about individuals conducting suspicious or corrupt betting activity in order to protect the gambling industry, customers and sport. Another respondent suggested that the Commission should make this a licence condition applied to the land-based betting sector, or to individual operators as appropriate.

### **The Commission’s position**

**This proposal has been embedded into the principal requirement emerging from this consultation - to assess and manage money-laundering risk. As part of this risk assessment, operators should consider their ability to monitor customer activity across products and platforms. We expect operators to adapt their approach as technologies and data analytics continue to develop. As is the case now, we expect licensees to monitor customer activity across products and platforms when they have identified a particular risk around an individual customer.**

Although we acknowledge the technological challenges for some operators, we remain committed to this prospect in principle, for social responsibility reasons as well as for anti-money laundering. We expect that as technologies and data analytics develop, tracking customers across different products and platforms will become more achievable for all operators. The Commission has been very clear for some time that we expect operators to use all the means at their disposal, including such technology, data and commercial systems where they are in place, in order to help keep crime out of gambling. At the moment, we are not introducing a separate code requirement. Instead we consider it appropriate for operators to consider this issue as part of their AML risk assessment.

As part of this, we expect licensees to continue to make all efforts to monitor individual customers across their entire business particularly where the licensee has identified individuals as a high risk in terms of money laundering. We have updated our guidance to remote and non-remote casinos to reflect that licensees should consider this measure as part of their risk management plan. We will also update our PoCA advice note for other operators to reflect similar. We will be publishing our revised casino guidance shortly, and intend to publish an update to the PoCA advice later in the year.



## **Consultation proposal: Other reportable events – discontinuing a business relationship with a customer as a result of money laundering concerns**

- 4.26** A licensee may decide to terminate a business relationship with a customer if the licensee believes the customer is involved in money laundering or that by continuing, the licensee risks committing money laundering offences under PoCA. The Commission is interested in information about any customer relationships discontinued for those reasons because it is useful to us in developing a clear understanding of money laundering threats and trends in the gambling industry.
- 4.27** We proposed an addition to the licence condition for key events, requiring operators to report on the number of cases where they discontinue a customer relationship because of money laundering concerns, for the reasons above.

### **Consultation questions**

- Q12. Do you have any comments on the proposal which will require operators to report on the number of customers where they have ended the business relationship due to money laundering concerns?
- Q13. How far would such a requirement add to the regulatory burden on operators?

### **Respondents' views**

- 4.28** Some respondents noted that they are required to complete Suspicious Activity Reports (SARs) in the event of having knowledge or suspicion that a customer is engaged in money laundering, and must also report the unique reference numbers (URNs) of SARs to the Commission. Some felt that our proposal here duplicated this requirement, while others thought the Commission could request details of SARs submitted from the NCA. A small number of respondents also suggested that information about whether they had discontinued a customer relationship could be included when reporting the URN of a SAR to the Commission.
- 4.29** Respondents pointed out that licensees in the non-remote and remote casino sectors have a responsibility to discontinue customer relationships where they are unable to complete customer due diligence measures for that customer, which might be because the customer did not wish to provide information rather than because of money laundering suspicions. Respondents felt the proposed draft did not make clear whether they were required to report both types of discontinued relationships, and that this ambiguity could lead to the Commission receiving information that would not serve a useful purpose.
- 4.30** Some respondents suggested that it would be easier for them to submit such reports as part of the Regulatory Returns information they are required to provide. This would remove the need to complete a separate key event report for each discontinued relationship.
- 4.31** A small number of respondents felt that this was not appropriate to sectors such as the AGC, FEC or bingo sectors, but had no objection on the basis that any such numbers would be so small that reporting would not be a burden.
- 4.32** Some respondents suggested that it would be useful to report information in order for the Commission to collate it and provide intelligence to operators about people suspected of money laundering.
- 4.33** Respondents were not clear how the Commission might use this information. Some expressed concern that the number of discontinued relationships might be used in isolation as a metric to compare and contrast the actions of licence holders.

**4.34** One respondent expressed concern that a licensee might discontinue a customer relationship for money laundering reasons without notifying the appropriate enforcement authorities via a SAR, and that licence holders might discontinue relationships for other business reasons. This respondent argued that the Commission should make all instances where a licensee discontinued a customer relationship reportable.

### **The Commission's position**

**We will consider further whether we wish to gather information on discontinued customer relationships due to AML concerns as part of a review of our Regulatory Returns later this year, as such information may help the Commission to track trends in incidents across sectors and develop a clearer understanding of threats in the gambling industry.**

It is not part of our approach to use information such as numbers of discontinued customer relationships in isolation to compare the performance of different operators. However, we can and do use such information to identify and begin to understand variations between licensees of similar size and business model.

We confirm that we are interested only in information about relationships discontinued for money laundering concerns - that is, as a result of a decision by the licensee that there was a risk that money laundering offences might otherwise be committed. We do not consider that information about other types of discontinued relationships would be helpful to us at this stage.

Licence holders do have a requirement to notify us of the Unique Reference Number (URN) of any SAR they submit under existing regulations, but this information does not include whether or not they have discontinued the customer relationship. Nor does submission of a SAR automatically mean that an operator has discontinued a customer relationship, and vice versa. Although we have the URNs of SARs, we are prohibited from routinely requesting any further information about these reports from the NCA. Access and review of SARs material is strictly monitored by the NCA and is explicitly prohibited for regulatory purposes. Therefore, in order to learn about numbers of discontinued relationships we need to collect this information separately.

We note the calls for the Commission to set up an intelligence gathering function to collate and share information across industry. However, we do not think it is appropriate to do so at this time. Although we accepted the role of intelligence lead in the case of sports betting, this was because it was agreed that we were best placed to receive and disseminate information and provide the framework for all partners. We do not agree that we could fulfil such a role for money laundering. The function would also be likely to overlap and duplicate the UK Financial Intelligence Unit (FIU) activity, as FIU's role is to receive SARs and align intelligence, including references to multiple sources of information.

Having considered all of the responses, we do understand some of the concerns licence holders expressed regarding the burden of raising an individual key event report every time a customer relationship is discontinued for money laundering concerns. We agree with respondents that it would be more proportionate to report such numbers via a regular report such as the Regulatory Returns, rather than as individual key events. We will be reviewing our Regulatory Returns requirements later this year and will pick up this topic with a view to including it as part of that review.

## Consultation proposal: Anti-money laundering measures for operators based in foreign jurisdictions

- 4.35** We proposed a new general licence condition for operators based in foreign jurisdictions to ensure that they comply with the Money Laundering Regulations 2007. This was to replace an individual licence condition currently applied to the licences of any licence holders falling into this category.

### Consultation question

- Q14. Do you have any comments on the draft new licence condition for remote casino operators who have remote gambling equipment located outside of Great Britain?

### Respondents' views

- 4.36** The majority of respondents supported this proposal in principle, noting that it appeared to simply formalise an existing arrangement. Some respondents applauded the introduction, noting that in order for competition to be fair, licence holders needed to be subject to the same regulations.
- 4.37** Some respondents argued that licence conditions should not be based on the location of equipment, especially when equipment is based in jurisdictions considered low risk. Others stated that this should have no impact on the majority of operators licensed by the Commission, who are already compliant with the Money Laundering Regulations (MLR) or PoCA.
- 4.38** A small number of respondents indicated that they would expect the Commission to have mechanisms in place to work collaboratively with other regulators, and reach agreement on the advice and guidance provided in relation to money laundering.

### The Commission's position

**We are implementing this new licence condition to specify that operators based in foreign jurisdictions must comply with the Money Laundering Regulations. We have considered feedback from the consultation and made some minor changes to improve clarity.**

As respondents to the consultation noted, by introducing this change we are removing the need for additional individual licence conditions for certain operators.

### New licence condition

#### 12. Anti-money laundering

##### 12.2.1 Measures for operators based in foreign jurisdictions

**All remote casino operating licences where any of the licensee's remote gambling equipment is located outside Great Britain**

- 1 Licensees must comply with Parts 2 and 3 of the Money Laundering Regulations 2007 (UK Statutory Instrument No.2157 of 2007) as amended by the Money Laundering (Amendment) Regulations 2007 (UK Statutory Instrument No.3299 of 2007), or the equivalent requirements of any UK Statutory Instrument by which those regulations are amended or superseded insofar as they relate to casinos (the MLR) whether or not the MLR otherwise apply to their business.

## Consultation proposal: Cash and cash equivalents

- 4.39** Our casework has demonstrated a number of incidents where licensees have not implemented and monitored effectively their procedures and policies for handling cash and cash equivalents. The existing licence condition for cash handling (5.1.1) has proved ineffective in terms of both encouraging the gambling industry to reduce its vulnerabilities in this area, and providing effective regulatory options for the Commission.
- 4.40** We consulted on an amendment to the existing condition to make our intention clearer.
- 4.41** During the early part of the consultation period, we realised that we had excluded remote licences from the draft proposal. We used the consultation workshops, our e-bulletin and our website to draw attention to this, and corrected the proposal and corresponding questions.

### Consultation questions

- Q15. Do you agree that licence condition 5.1.1 should apply to remote gambling operators and that it should be amended to make it clear that operators must have effective policies and procedures for the handling of both cash and cash equivalents?
- Q16. Do you have any views on the licence condition as redrafted?

### Respondents' views

- 4.42** Respondents generally agreed that it was appropriate to include remote gambling operators within this licence condition, and that the proposed drafting made the condition clearer.
- 4.43** A small number of respondents argued that as some sectors, eg, bingo, AGCs and FECs, do not use bankers drafts, cheques, debit cards or digital currencies, the redrafted licence condition did not target the appropriate sectors. One respondent suggested that the licence condition should not require operators to 'promote the licensing objectives', but rather to 'not put the licensing objectives at risk.' Concern was also voiced that the redrafted condition now refers to all the licensing objectives rather than, as previously, to the second licensing objective (fairness and openness).
- 4.44** Some respondents noted that financial institutions are also subject to money laundering and proceeds of crime regulation, and will have already performed customer checks on any customer passing money through that institution. Respondents called for the Commission to agree a consistent approach with the Financial Conduct Authority (FCA) in relation to the link between financial institutions and operators in this area.
- 4.45** A small number of respondents felt that the drafting did not make the condition any clearer.

### The Commission's position

**We are proceeding with amendments to licence condition 5.1.1 to make clear that operators must have effective policies and procedures for the handling of both cash and cash equivalents. We have made some drafting changes to improve clarity following consultation.**

Attendees at consultation workshops were satisfied that the notice we gave them provided sufficient opportunity to respond to our clarified proposal. The majority of formal respondents also referenced the extension to remote operators. We are therefore satisfied that all respondents had sufficient opportunity to consider this amendment in their response.

We accept that use of cash equivalents such as bankers' drafts, cheques, debit cards or digital currencies is limited in some gambling sectors. However, this condition covers both cash and cash equivalents, which has not changed from the existing licence condition 5. The condition requires licensees to put appropriate processes into place as part of their internal controls and accounting systems. There will be no requirement to put in place processes for cash equivalents or payment methods that the licensee does not use. We are satisfied that we have targeted the requirement appropriately.

We note calls to agree a consistent approach with the FCA. We are satisfied that our regulation does not conflict with that of the FCA.

## **Amendment to licence condition 5.1.1 and 5.1.2**

### **5. Payment**

#### **5.1 Cash and cash equivalents, payment methods and services**

##### **5.1.1 Cash and cash equivalents**

###### **All operating licences except gaming machine technical and gambling software licences**

- 1 Licensees, as part of their internal controls and financial accounting systems, must ~~have and put into effect~~ **implement appropriate** policies and procedures concerning the ~~handling~~ **usage** of cash and cash equivalents (~~ie eg,~~ **bankers drafts, cheques and debit cards and digital currencies**) **by customers**, designed to minimise the risk of crimes such as money laundering, to avoid the giving of illicit credit **to customers** and to provide assurance that gambling activities are being conducted ~~fairly~~ **in a manner which promotes the licensing objectives**.
- 2 **Licensees must ensure that such policies and procedures are implemented effectively, kept under review, and revised appropriately to ensure that they remain effective, and take into account any applicable learning or guidelines published by the Gambling Commission from time to time.**

##### **5.1.2 Payment methods and services**

###### **All remote casino, bingo and betting operating licences, except ancillary and remote betting intermediary (trading room only) licences**

- 1 Licensees ~~must should~~ only accept payment from customers using their gambling facilities in Great Britain by a method which involves the provision of payment services as defined in Schedule 1 Part 1 of the Payment Services Regulations 2009 (SI 2009 No 209) if the provider of those services is a 'payment service provider' within the definition of that term in regulation 2 of those Regulations.

### **Consultation proposal: Linking means of payment of stake to payment of winnings**

- 4.46 There is a risk that customers might attempt to place, layer and convert criminal proceeds through gambling transactions. In our consultation, we sought views on mitigating this risk by linking the payout of the winnings with the means by which a customer pays for gambling transactions.
- 4.47 We did not propose a licence condition or ordinary code provision in this area, but asked for views on the introduction of a licence condition.

## Consultation questions

- Q17. Do you have any views whether we should introduce a licence condition to cover this risk, and what it should contain?
- Q18. Do you think that this requirement should be limited to cash stakes only?
- Q19. Do you have any other views on how to manage risk in this area?

## Respondents' views

- 4.48** The majority of respondents argued that a licence condition would be too restrictive to manage this risk. Respondents pointed to safety considerations for both staff and customers if businesses were required to keep large amounts of cash on the premises and customers required to leave carrying winnings in cash. Some respondents stated that in some sectors, such as AGCs and FECs, machines may pay out in prizes or tickets rather than in cash, rendering the requirement impossible to meet. Respondents also pointed out that changing their procedures to achieve this proposal would involve significant cost to the industry.
- 4.49** Many respondents stated that they already have processes in place to manage risks around this area. These processes depended on the model of the individual business and therefore would be difficult to encompass in a licence condition. A number of respondents asserted that the best way to assess and manage such risks would be via the money laundering risk assessment that we are introducing as a new licence condition. This would provide licensees sufficient flexibility to manage the risk in the best way for their business.
- 4.50** One respondent suggested mandatory account based play would be the most appropriate way of managing money laundering risk, specifically as a condition of use for category B machines.
- 4.51** Some respondents argued that as the issue was wider than gambling it would be more appropriately addressed by HM Treasury and including, for example, the banking sector. Others suggested that, for example, other businesses such as supermarkets offer cash-back facilities on customer debit cards without identity checks, so to impose this condition would unfairly penalise only one section of the economy. Respondents did not feel that any condition should be limited to cash stakes only. One respondent called for regulation over cash being converted via top-up or pre-pay facilities into electronic currency, following the introduction of this facility in land-based platforms. This respondent also considered that mandatory account based play, targeted as a condition for use of category B2 gambling machines (that is, those with a maximum stake of £100 and a maximum prize of £500, including machines known as fixed odds betting terminals, or FOBTs), would be the best way to manage money laundering risks in the land-based sectors.

## The Commission's position

**In line with our approach of focusing on outcomes, we expect that licence holders will consider linking means of payment of stake to payment of winnings as part of their overall assessment of money laundering risks. We will include advice about considering this risk as part of our guidance for remote and non-remote casinos, and our advice for other operators.**

Respondents generally agreed with our position that licence holders must be held accountable for managing money laundering risks but that they must have scope for flexibility on how to achieve such outcomes. Our guidance for remote and non-remote casinos already flags the issue of linking means of payment of stake to payment of winnings as a risk for consideration, and we will update our PoCA advice with similar advice.

We note the call from one respondent for mandatory account based play, an issue which remains relevant for discussion and which we highlight in [Strengthening Social Responsibility](#).

## **Consultation proposal: Current ordinary code provisions for anti-money laundering**

- 4.52** Within LCCP, two ordinary code provisions address anti-money laundering. These are ordinary code provisions 2.1.1 (Anti-money laundering – casino) and 2.1.2 (Anti-money laundering – other than casino).
- 4.53** We did not propose any immediate changes to these ordinary code provisions, but we sought views on whether at a future point, with appropriate changes to wording, we should change their status to make them into licence conditions, which are mandatory.

### **Consultation question**

- Q20. Do you have any views on whether the Commission should change the status of these ordinary code provisions to make them licence conditions, requiring all operators to comply with the anti-money laundering guidance or advice issued by the Commission?

### **Respondents' views**

- 4.54** The majority of respondents agreed that other proposals in the consultation, such as the requirement for licensees to assess money-laundering risks to their organisation, rendered a change to the existing ordinary code provisions unnecessary. Most were satisfied that the existing code provisions are working adequately, and that licensees were taking account of the relevant guidance.
- 4.55** Under the existing ordinary code provisions, licensees should comply with the Commission's advice and guidance. Some respondents pointed out that elevating the ordinary code provisions to mandatory licence conditions would therefore effectively elevate the guidance and advice to the level of licence conditions. Respondents felt this would be disproportionate and would require detailed consultation on the content of the advice and guidance.
- 4.56** Some respondents felt that elevating the status of the ordinary codes to licence conditions would ensure all operators applied the same high levels of compliance, which would be the best way of keeping crime out of gambling. One respondent pointed out that in the remote sector, all payments pass through FCA regulated payment service providers, and so such providers should be subject to AML regulation.

## The Commission's position

**In line with our approach to focus on outcomes rather than processes, we do not consider it necessary to elevate the provisions which refer to the Gambling Commission's advice and guidance to operators on AML and PoCA to requirements at this time.**

Although we did not propose to immediately change the existing ordinary code provisions for anti-money laundering, we wanted to gather views on whether the conditions should be elevated at a later point, dependent on the outcomes of other consultation proposals. We note that some respondents suggested that making the ordinary codes into licence conditions would elevate standards across the industry in terms of keeping crime out of gambling. However, we consider that the other changes we are implementing, particularly the requirement for operators to assess money laundering risks to their business and develop and implement effective policies to manage and mitigate these, will introduce additional controls around money laundering.

We also note the call for regulation of payment providers. The FCA already regulates such providers, which are not within the remit of the Commission. We expect licensees to conduct their own checks on their customers, rather than simply to rely on checks done by other organisations. This approach is confirmed by MLR 2007 regulation 17, which states that relevant persons cannot rely on the due diligence conducted by others. Licensees remain liable for any failures to apply customer due diligence measures.

We will be publishing revised anti-money laundering guidance for casinos and updating our PoCA advice for other operators, to which these ordinary code provisions refer.

### **Consultation proposal: Revised guidance for non-remote and remote casinos on preventing money laundering and combating the financing of terrorism**

**4.57** Alongside the proposed revisions to LCCP, we also consulted on an updated version of our guidance on anti-money laundering, *The Prevention of Money Laundering and Combating the Financing of Terrorism – Guidance for Remote and Non-Remote Casinos*.

**4.58** The updated edition meets HM Treasury's requirement to review regularly any guidance issued. The update:

- incorporates learning from our anti-money laundering casework
- provides new guidance and updates existing guidance in critical areas identified by our compliance and investigation activity
- updates references to the Serious Organised Crime Agency (SOCA) to the National Crime Agency (NCA), its successor
- was reviewed in support of the proposals contained in the anti-money laundering chapter of the consultation, with the intention that licensees will use the guidance in conjunction with any anti-money laundering conditions we subsequently implemented.

### **Consultation questions**

Q21. Do you have any comments on the revised sections of the guidance document?

Q22. Do you have any comments on the new sections of the guidance document?

Q23. Are there any other areas which you think should be covered in the guidance?



## **Respondents' views**

- 4.59** Respondents provided detailed comments on a number of the areas of the revised guidance.
- 4.60** Some respondents felt that the Commission should consult on the guidance separately, particularly if we had plans to elevate the current ordinary code provisions in LCCP (which refer to this guidance) to mandatory licence conditions.

### **The Commission's position**

**We would like to thank respondents for their comments and feedback on the guidance, the final version of which will be reissued shortly.**

We will also shortly be updating our advice on the Proceeds of Crime Act for all other operators.

## 5 Responsible placement of digital adverts

- 5.1** We have seen adverts from mainstream gambling operators appearing on websites providing unauthorised access to copyrighted content. As advertising revenue largely funds these websites, this means that licence holders are inadvertently funding them. A [report](#) by the Digital Citizens Alliance estimated that in 2013, websites providing unauthorised access to copyrighted content generated \$227 million from advertising, which demonstrates the scale of this problem.
- 5.2** Our approach to this issue to date has been reactive. We have worked collaboratively with multi-agency partners involved in Operation Creative to identify operators whose third party affiliates place adverts on such websites and take appropriate action. In 2015 this resulted in a [36% drop](#) in advertisements of this nature. However, it is not sustainable for us to continue to address the issue in this way in the long term and nor should it be. Our expectation is that licensees will take more responsibility for ensuring that adverts placed by themselves or others do not appear on these websites.

### Consultation proposal

- 5.3** LCCP social responsibility code provisions 1.1.2 and 1.1.3 require licensees to take responsibility for third parties with whom they contract but despite this, we continue to see adverts appearing. We therefore consulted on views on introducing requirements on licensees to take all reasonable measures to ensure that adverts do not appear on these websites. We also asked what other steps or measures might be considered.

### Consultation questions

- Q24. What are your views on introducing a requirement, potentially via a Social Responsibility code provision, for licensees to take all reasonable measures to ensure that digital adverts placed by themselves, or third parties, do not appear on copyright infringing websites?
- Q25. What are your views on introducing an ordinary code provision on measures licensees should consider taking to prevent adverts appearing on illegal sites, such as the use of commercial content verification software?
- Q26. What other steps or measures do you think could be considered?

### Respondents' views

- 5.4** Representatives of three organisations directly affected by or involved with the prevention of unauthorised access to copyrighted content commented on the serious nature of this issue. All favoured introducing a requirement.
- 5.5** Other feedback was mixed and opinion was divided about how best to resolve this issue, although respondents agreed in principle that the adverts should not appear on such sites. Slightly more respondents favoured the implementation of an explicit requirement rather than an ordinary code provision. Respondents noted that licence holders and the Commission would need to operate a common interpretation of the term 'reasonable measures', should we take such an approach.
- 5.6** Some respondents opposed the notion of addressing this issue through LCCP provisions or felt that the issue was beyond our remit. One respondent argued that legal changes of this nature should be the domain of Parliament while others felt the Commission already had the powers to deal with this, for example, through the first licensing objective.
- 5.7** A number of respondents argued that use of tools such as commercial content verification software or the Infringing Website List (IWL) was still reactive rather than providing a real time solution. One operator suggested that despite best efforts to remain compliant,

operators would therefore often find themselves in breach of the LCCP. Respondents had mixed views on the use of commercial content verification software, which is a relatively new and unknown approach. One respondent was unaware of it, while others cautioned against potential expense and appropriateness in relation to different businesses/technology systems within the industry, seeking assurance that costs would provide results. The Federation Against Copyright Theft (FACT) noted that there is strong evidence to show that such software would be of assistance but acknowledged the cost implication. Respondents considered that use of the IWL may be more workable and proportionate, though they expressed concern that the sheer numbers of marketing affiliates some operators have would make checking them all time consuming and burdensome. We note however, that operators would only need to check against one list.

- 5.8** Respondents also referred to the terms and conditions in affiliate contracts. Some thought that access to the IWL would provide a lever for them to take action against third parties. Others considered that terms and conditions already provide a sufficiently robust, if reactive, approach. Another respondent pointed out the current LCCP provision already requires operators to be responsible for contractual arrangements with third parties.
- 5.9** Respondents suggested some other measures to address this issue. Some, such as arranging to shut down or block websites providing unauthorised access to copyrighted content, fell outside of the Commission's remit.
- 5.10** Another respondent suggested that we could address the issue via a new code provision. The onus would rest with the licensee to ensure that a particular streaming website with which it is entering into a direct contractual relationship is legitimate. Furthermore, any licensee currently in such a relationship should be compelled to disclose all ownership and banking details of the streaming website.
- 5.11** Finally, FACT suggested taking an educative approach by informing stakeholders about the economic harm caused by unauthorised access to copyrighted content, malware risks, escalating criminal conduct and reputational damage to particular brands concerned and Great Britain as a whole.

### **The Commission's position**

**We are satisfied that we have established the principle that adverts should not appear on websites providing unauthorised access to copyrighted content. We are therefore implementing the licence condition, and will hold a short supplementary consultation on the specific wording.**

We have seen adverts from operators we have already contacted reappearing on websites providing unauthorised access to copyrighted material, demonstrating the need for additional controls beyond our current approach. Although adverts placed on such websites are not criminal in themselves, they contribute to funding them, and are therefore associating gambling with crime.

Although consultation respondents agreed in principle that adverts should not appear on illegal websites, there was less agreement about the best way to prevent that from happening. Given the serious nature of this issue, we did not consider that an ordinary code would give our expectations of licensees sufficient weight. Nor did we deem a social responsibility code appropriate as the issue focuses more on keeping crime out of gambling rather than protecting consumers. We therefore consider it appropriate to introduce a new licence condition to address the issue.

We will shortly consult further on the wording of the new licence condition. We intend to implement this requirement alongside the other LCCP changes already planned for later in 2016.

## 6 Misuse of inside information by industry personnel

6.1 Our casework has shown there is potential for a conflict of interest if a licensee's employees encounter information that might indicate suspicious or irregular betting activity and use it to place bets in their own interest. The betting integrity system relies on operators reporting information about suspicious betting patterns to the Commission and the relevant sports governing body under ordinary code 15.1.2. Without this, licensees may be at risk of accepting bets based on advantageous commercial intelligence in the possession of other operators and the betting integrity system is at risk of being undermined.

### Consultation proposal

6.2 We considered that these risks could be mitigated by two measures which build on the [Parry](#) recommendation. This called on operators to '*vary betting terms and conditions to make the contravention of sports or other professional or employer rules on betting a breach of the operator's own [betting] terms and conditions*'.

6.3 We also recommended that betting operators should provide mutual assurance among themselves that effective employment terms and conditions are in place, requiring employees to act primarily in the interests of their employers.

6.4 We consulted on introducing two new ordinary code provisions to address this risk. In making these proposals, we aimed to underpin the effectiveness of the Parry recommendation, to raise awareness of the issues and to help licensees to take protective steps.

### Consultation questions

Q27. What are your views on the introduction of new ordinary code provisions advising betting operators that they should put in place new employment terms and conditions to require employees to report indicators of suspicious betting and impose restrictions?

Q28. What are your views on the introduction of a new ordinary code provision to advise betting operators that they should include a clause to state that breaches of sports or other rules will also constitute a breach of the operator's customer betting terms and conditions?

### Respondents' views

6.5 A number of respondents agreed with the proposal to implement ordinary code provision 7.2.1 (relating to employees) by amending each individual employee's contract. Others however took the view that this was not proportionate or necessary and a better approach would be to amend general employment policies and procedures to which contracts referred. Larger operators pointed out that very few employees would have access to information of this nature (for example, traders).

6.6 We are pleased that a number of responses made references to codes of conduct that licensees have already put in place to address this issue. A respondent also mentioned the European Sports Security Association (ESSA) code of conduct. One operator noted that integrity in sports betting is an area in which there are high levels of co-operation between the industry, regulators, law enforcement and sport.

6.7 One industry respondent questioned the necessity of adding to the weight of regulation in this area, stating that the Commission had provided no evidence of widespread non-compliance. One trade body was of the view that suspicious activity could also arise in the remote and casino sectors, or in the development of machine games.

- 6.8** Respondents were broadly in agreement with the introduction of new ordinary code 4.2.8 (relating to voiding bets which have been placed in breach of sports governing body, professional body or employer rules). Some felt however that this condition should refer to sports governing bodies only.
- 6.9** One respondent expressed concern that the onus for upholding this code should not rest ultimately with the operator. Sports bodies responding to the consultation confirmed that they did not expect licensees to be responsible for policing their rules.
- 6.10** Other feedback included views that imposing such terms and conditions was outside the remit of any regulator; that this provision goes beyond helping to protect the integrity of sport; and that developing industry standards and an industry code would be a better way to proceed.

### **The Commission's position**

**We are proceeding with the ordinary code provisions. These state that: licensees should require their employees to report irregular/suspicious betting patterns, prohibit employees from placing bets using information relating to these patterns, and include in their customer terms and conditions that the customer must not be in breach of relevant Sports Governing body or other rules. We have made some drafting changes as a result of the consultation.**

We have widened the scope of these ordinary code provisions to include irregular as well as suspicious betting patterns. Irregular betting patterns may not strictly link to crime. However, our intention in introducing these proposals is to make it more difficult to profit from suspicious or irregular information (which protects the industry from the less scrupulous). As a result we consider this inclusion is justified.

We agree that it would be unnecessarily onerous for operators to amend all staff contracts. We have therefore amended the code to provide for operators to have appropriate employment policies in place to manage the issue.

One response suggested that operators should oblige employees to declare betting accounts they hold with other operators and flag these to the relevant gaming authority. We suggest that operators may wish to consider this and other measures as part of their general policies, though we do not propose to specify this as a requirement in LCCP.

We considered limiting the rule breach in ordinary code 4.2.8 to sports governing bodies only, but decided that this would limit the protection that the code provision offers. Some competitions, for example, reality TV game shows such as X Factor, attract betting activity but are not covered by a sports governing body. Any organisation providing such a competition will have rules governing the competition, so we consider that it is appropriate that we do not limit the code provision to sports governing bodies only.

We confirm that this code provision does not require that licensees must know all the rules of sports governing or other bodies, nor does it aim to make licensees responsible for policing the behaviour of members of professional bodies. Rather, it enables an operator to cancel a bet if they find that the bettor is in transgression of a rule and to take disciplinary action against a staff member if required.

One respondent expressed disappointment that we did not consult on licence condition 15.1.2 to make clear that operators should report suspicious information to sports governing bodies as soon as possible. As noted in the original consultation, we will be considering our sports betting integrity approach against the requirements of the Council of Europe Convention on the Manipulation of Sports Competitions and will consider any further changes specifically on sports betting integrity matters when we review our sports betting integrity arrangements as stated in our 2016 Business Plan.

## **New ordinary code provision**

### **7.1 Gambling staff and irregular betting**

#### **7.1.3 Gambling staff**

##### **All betting operating licences**

- 1 Licensees should have employment policies that:
  - require employees to report any indicators of irregular and/or suspicious betting to their employer; and
  - prohibit their employees from using information related to irregular and/ or suspicious betting for the purpose of placing their own wagers, either with their employer or with other operators.

## **Addition to ordinary code provision (amended following consultation)**

### **4.2.8 Betting integrity**

#### **All betting operating licences, including betting intermediary, ancillary remote betting and remote betting intermediary (trading rooms only) licences**

- 1 Where licensees offer to accept bets, or facilitate the making or acceptance of bets between others, on the outcome of a sport regulated by a sport governing body for the time being included in Part 3 of Schedule 6 of the Act they should take all reasonable steps to familiarise themselves with the rules applied by that body on betting, in particular betting by registered participants.
- 2 **Licensees should ensure that a condition of their accepting bets is that for a bet to be valid, customers placing such bets must not be in breach of any rules about irregular and/or suspicious betting or misuse of inside information relevant to a sports governing body, other professional body of which they are a member, or their employers. Where a breach of these rules is identified, licensees should then take steps to void the bet.**

## 7 Digital Currencies (often referred to as virtual currencies or cryptocurrencies, for example, Bitcoin)

- 7.1** In this section of the consultation we set out some of the advantages and the risks we see in the use of digital currencies in the gambling industry. Our position is that digital currencies are equivalent to money or money's worth when being used to gamble. They therefore fall within the requirements of our current AML measures, and licensees are required to carry out checks to satisfy themselves, as far as possible, that the source of funds is legitimate.
- 7.2** However, some aspects of digital currencies – for example, their potential for anonymous use – may make them attractive to illicit users. In the consultation we sought views on benefits and challenges in using digital currencies in the gambling industry in Great Britain, and on potential ways of mitigating the risks.

### Consultation questions

- Q29. Looking at the challenges in the use of digital currencies listed above, do you see any omissions or oversights? What are your views on the validity of those challenges?
- Q30. How might these and any other challenges that you have identified, especially those associated with AML, be mitigated?
- Q31. Given the potential difficulty in identifying customers and managing AML risks, what would be the potential benefits in the use of digital currencies compared to the extra compliance work involved?
- Q32. Do you see the business drivers to use digital currencies increasing or diminishing, and to what extent?
- Q33. What additional AML measures might be needed when accepting deposits from a payment intermediary where their source is digital currencies?

### Respondents' views

- 7.3** We received fewer responses to this section, because many respondents, particularly from within the gambling industry, had not considered using digital currencies within their businesses. The general view, from both written responses and workshops, appears to be that appetite to use digital currencies in Great Britain is currently slight, but may increase as their general use develops.
- 7.4** Some respondents considered that the risks and challenges to using digital currencies, such as anonymity, had yet to be addressed. Many felt that there was too little information about their use to reach a fully informed opinion.
- 7.5** Some respondents pointed out that use of digital currencies is still in an early stage of development. Further development is likely to make their use more transparent and secure, and hence it will be better to pose questions about regulating their use once they are more relevant to the gambling industry in Great Britain.
- 7.6** Respondents predicted that benefits and business drivers of using digital currencies would increase. They noted reduced transaction costs and the ability for faster cross-border transactions at higher values as particular benefits, and felt that the data and functions that become available as digital currencies develop will also aid identification of customers rather than prevent it.
- 7.7** Respondents thought that risks associated with the use of digital currencies could be addressed by formal AML measures under the risk-based system. They noted that with the

currency still in early stages of development it is too soon to be prescriptive about measures to manage risks.

- 7.8** Some respondents licensed both by the Commission and through other jurisdictions were more familiar with the use of digital currencies in gambling, and provided some information about how it is regulated elsewhere.

### **The Commission's position**

**Digital currencies are equivalent to money or money's worth when being used to gamble, and we will continue to monitor the use of such currencies in the gambling sector. Operators are reminded that they have a responsibility to understand the risks posed to the licensing objectives with regard to any payment method that they use and that they must take adequate steps to mitigate these risks.**

Some respondents noted that as digital currencies develop further, their use will become more transparent and secure, and appetite to use them may increase. Some remote licence holders who also operate in jurisdictions that already regulate digital currencies offered some specific information about their use and regulation, which we also continue to monitor.



## **Annex A List of respondents to the consultation**

A total of 30 formal written responses were received during the consultation period. A list of non-confidential respondents is set out below and the full responses are available on the Commission's website.

Aaron Amusements  
Association of British Bookmakers (ABB)  
Bingo Association  
British Amusement Catering Trade Association (BACTA)  
British Association of Leisure, Parks, Piers and Attractions (BALPPA)  
British Horseracing Authority (BHA)  
Campaign for Fairer Gambling (CFG)  
Federation Against Copyright Theft (FACT)  
Gala Coral Group  
Gambling Business Group (GBG)  
HealthCICservices Ltd  
Lotteries Council  
Moto Hospitality Ltd  
National Casino Forum (NCF)  
Netbet  
Novomatic UK Group  
Praesepe Limited  
Premier League  
Racecourse Promoters Association (RCPA)  
Rank Group PLC  
Remote Gambling Association (RGA)  
SMP Partners Ltd  
Sports Betting Group  
Talarus Ltd  
Thinking about Crime, Ltd  
William Hill

## Annex B Glossary of terms

<b>4<sup>th</sup> AML Directive</b>	European Union 4 <sup>th</sup> Anti-money laundering Directive
<b>AML</b>	Anti-money laundering
<b>B2 machines</b>	Under the Gambling Act 2005, gaming machines are categorised as A, B, C or D. An operating licence (issued by the Commission) together with a betting premises licence (issued by the licensing authority) allow for up to four B2 machines to be sited on gambling premises. Fixed odds betting terminals (FOBTs) are B2 machines.
<b>Business relationship</b>	A business, professional or commercial relationship between an operator and a customer, which is expected to have an element of duration.
<b>Business to business/B2B</b>	A term used to describe commerce transactions between businesses, or the exchange of products, services or information between businesses. In other words, it is business which is conducted between firms, rather than between firms and consumers (or customers).
<b>Business to customer/B2C</b>	A term used to describe commerce transactions between business and customers, rather than business between firms.
<b>Criminal spend</b>	In the context of gambling, the use of the proceeds of crime to fund gambling as a leisure activity (also known as lifestyle spend).
<b>CTF</b>	Countering terrorist financing
<b>Customer tracking</b>	The process of capturing drop and win data for a customer.
<b>Drop/win figures</b>	Data recorded by casinos that covers the total value of chips purchased as well as the total loss or win for a customer over a 24 hour period.
<b>FCA</b>	Financial Conduct Authority
<b>FIU</b>	The UK Financial Intelligence Unit
<b>LCCP</b>	<i>Licence conditions and codes of practice</i> issued by the Gambling Commission for gambling licensees
<b>Money laundering</b>	The process by which criminal or 'dirty' money is legitimised or made 'clean', including any action taken to conceal, arrange, use or possess the proceeds of any criminal conduct. Defined in section 340 of PoCA.
<b>MLR</b>	Money Laundering Regulations
<b>Non-remote casinos</b>	Casinos licensed to operate commercial casino premises
<b>Operators</b>	Firms holding an operating licence issued by the Commission
<b>PoCA</b>	The Proceeds of Crime Act 2002, which is intended to reduce money laundering and the profitability of organised crime through the use of tools such as asset recovery.

<b>Proceeds of crime</b>	Property from which a person benefits directly or indirectly, by being party to criminal activity, for example, stolen money, money from drug dealing or property stolen in a burglary or robbery.
<b>Remote casinos</b>	Casinos licensed to offer casino games by means of remote communication
<b>SAR</b>	A suspicious activity report - the means by which suspicious activity relating to possible money laundering or the financing of terrorism is reported to the NCA under PoCA or the Terrorism Act.
<b>SBIU</b>	The Commission's Sports Betting Integrity Unit, an intelligence gathering function related to sports betting.
<b>Source of funds</b>	Where the funds, money or cash to finance the transaction come from
<b>Supervisory authorities</b>	Supervisory authorities, which are listed in regulation 23 of the Money Laundering Regulations. The Commission is the supervisory authority for casinos.
<b>The Act</b>	The Gambling Act 2005
<b>The Commission</b>	The Gambling Commission
<b>The NCA</b>	The National Crime Agency, which became operational in October 2013. It is a crime-fighting agency with national and international reach that works in partnership with other law enforcement organisations to cut serious and organised crime. The NCA is the organisation to which suspicious activity is reported.
<b>The Regulations</b>	The Money Laundering Regulations 2007
<b>The Terrorism Act</b>	The Terrorism Act 2000
<b>UKFIU</b>	The United Kingdom Financial Intelligence Unit, which is the unit within the NCA that operates the disclosure regime for money laundering.
<b>URN</b>	Unique reference number, for example, of a suspicious activity report (SAR)

## Annex C Advice on reporting crime

In this new key event we are interested in learning about criminal investigations rather than suspicions. Therefore the unique reference number (URN) of any suspicious activity report (SAR) made by a licensee will not provide the information we need in order to properly consider what action to take.

In reporting this key event, we expect operators to provide details such as:

- the name and any details of the investigating body, including the lead officer
- when and where the incident took place
- a brief summary of the incident, including any sums involved
- a contact for further information within the licensee's business
- an explanation of the controls that were in place and why they failed.

We do not expect operators to report all crimes or suspected crimes to us. We are interested only in reports that meet the tests within the new licence condition:

- those crimes serious enough to warrant a criminal investigation
- those involving the licensee or their employees, their gambling facilities, or committed against the licensee
- those that would lead to the Commission questioning whether controls and systems had failed in keeping crime out of gambling.

All of the above tests must be met for an incident to become reportable.

This condition applies to all operating licences. Licensees that are only very rarely involved in criminal investigations will very rarely have to make a report. The tests in the condition are such that there is no need specifically to exclude any particular group of licensee.

Where cases are reportable, the Commission will take into account the relevant circumstances, (including the seriousness of the crime, the nature of the failure, any remedial action already taken and whether a licensee profited significantly as a result of the failure) in order to consider whether regulatory action is needed.

This condition requires licensees to look critically at their own procedures where an incident takes place, including linked procedures such as AML, social responsibility and customer interaction. We expect that any business would undertake such a critical examination as a matter of course if they learned they were linked to a criminal investigation, so the requirement should not pose additional burden.

Where a licensee becomes aware of a criminal investigation that meets the reporting criteria but decides that it would not lead to the Commission questioning whether controls and systems had failed, we recommend that the licensee record the reasons for that decision. This will provide evidence of why the licensee did not make a report if later challenged.

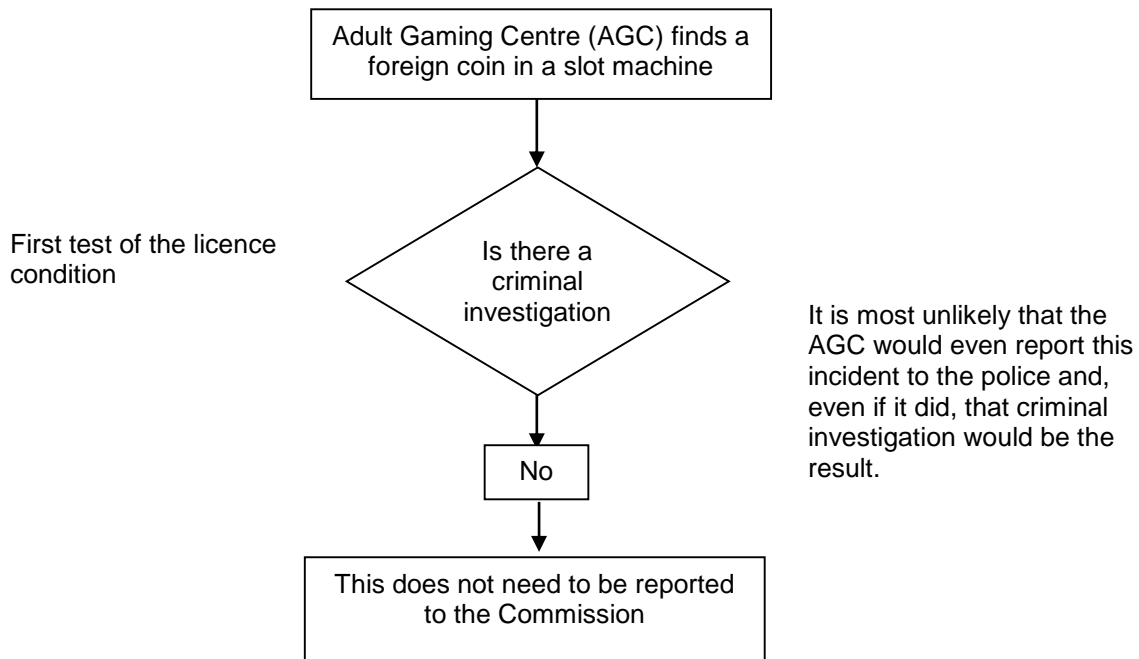
We will review the regulatory burden this involves over the next 12 months.

## Applying the licence condition

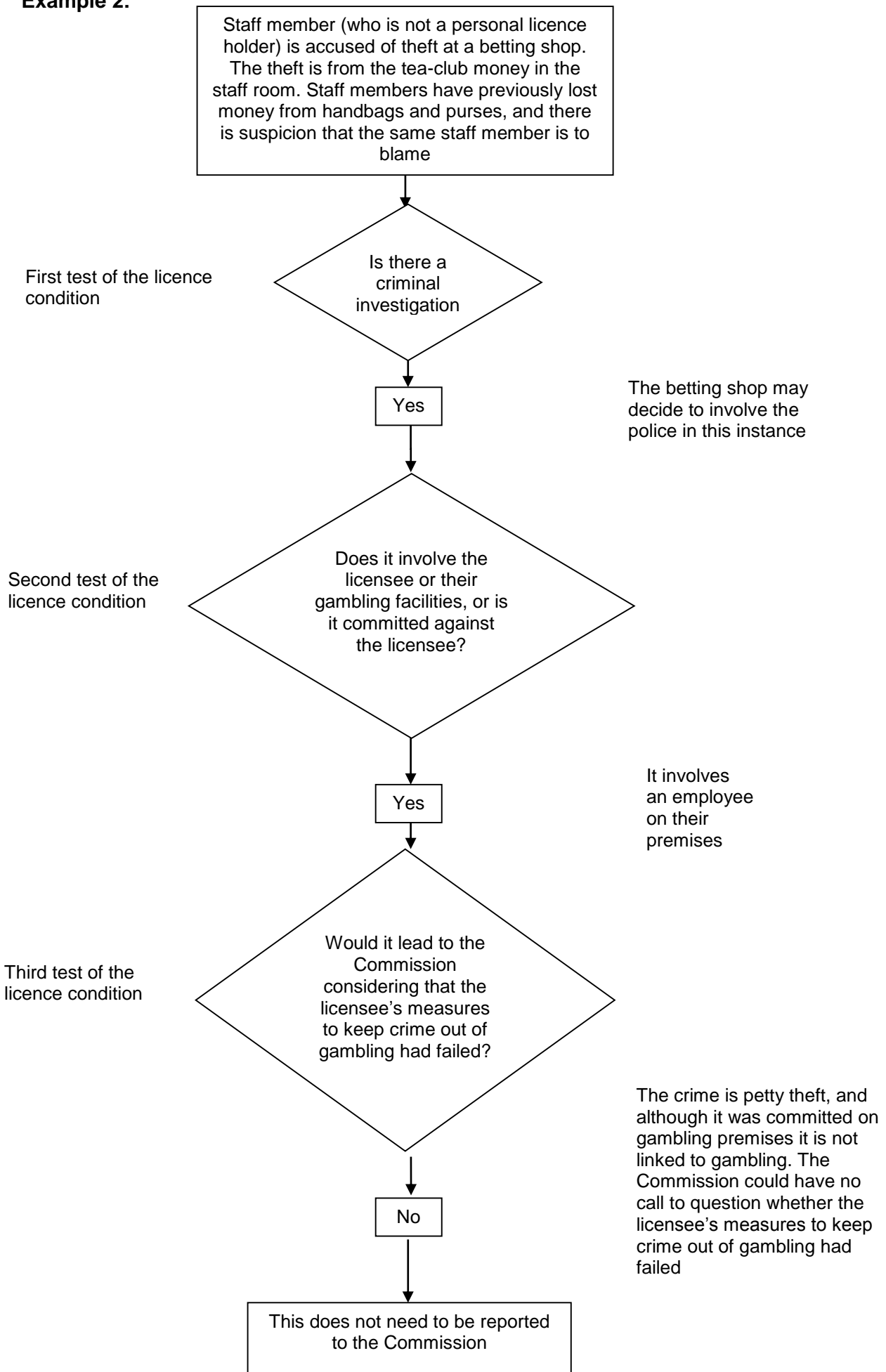
We provide the following examples of how to apply the new licence condition. Each of these examples follows the three tests in the condition, as explained above.

The examples are not exhaustive, and do not cover all sectors. We expect licensees to consider them as illustrative

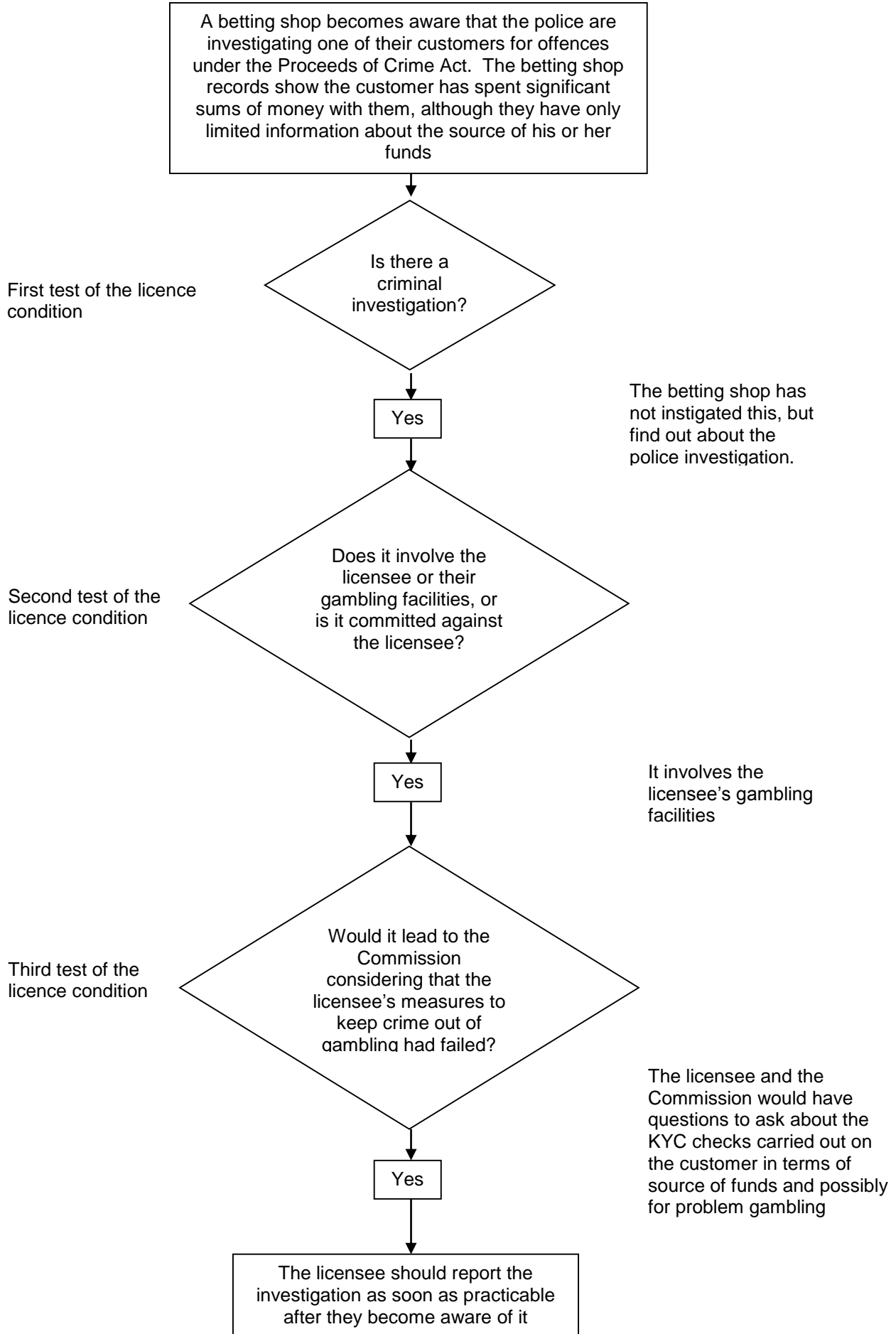
### Example 1:



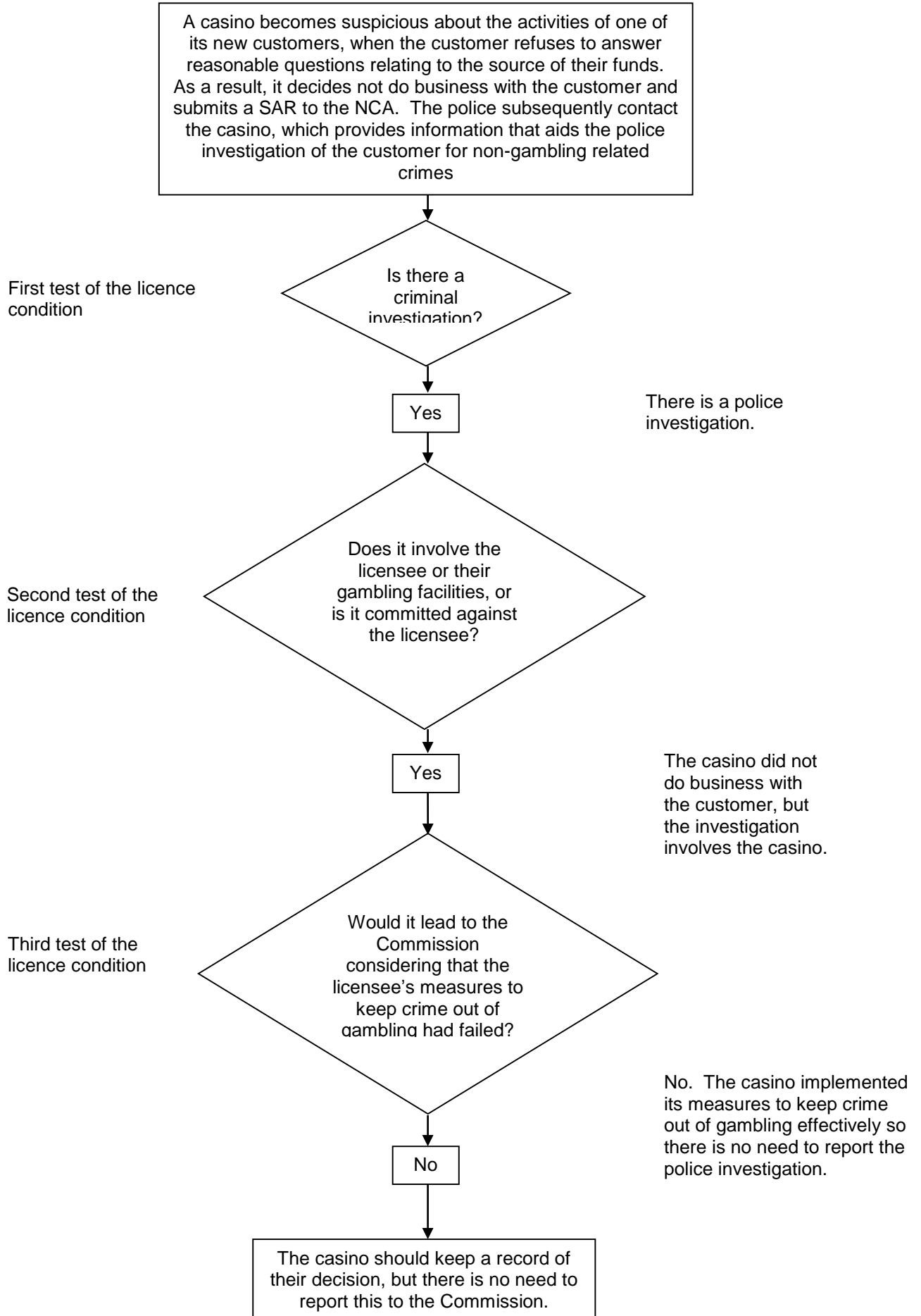
**Example 2:**



**Example 3**

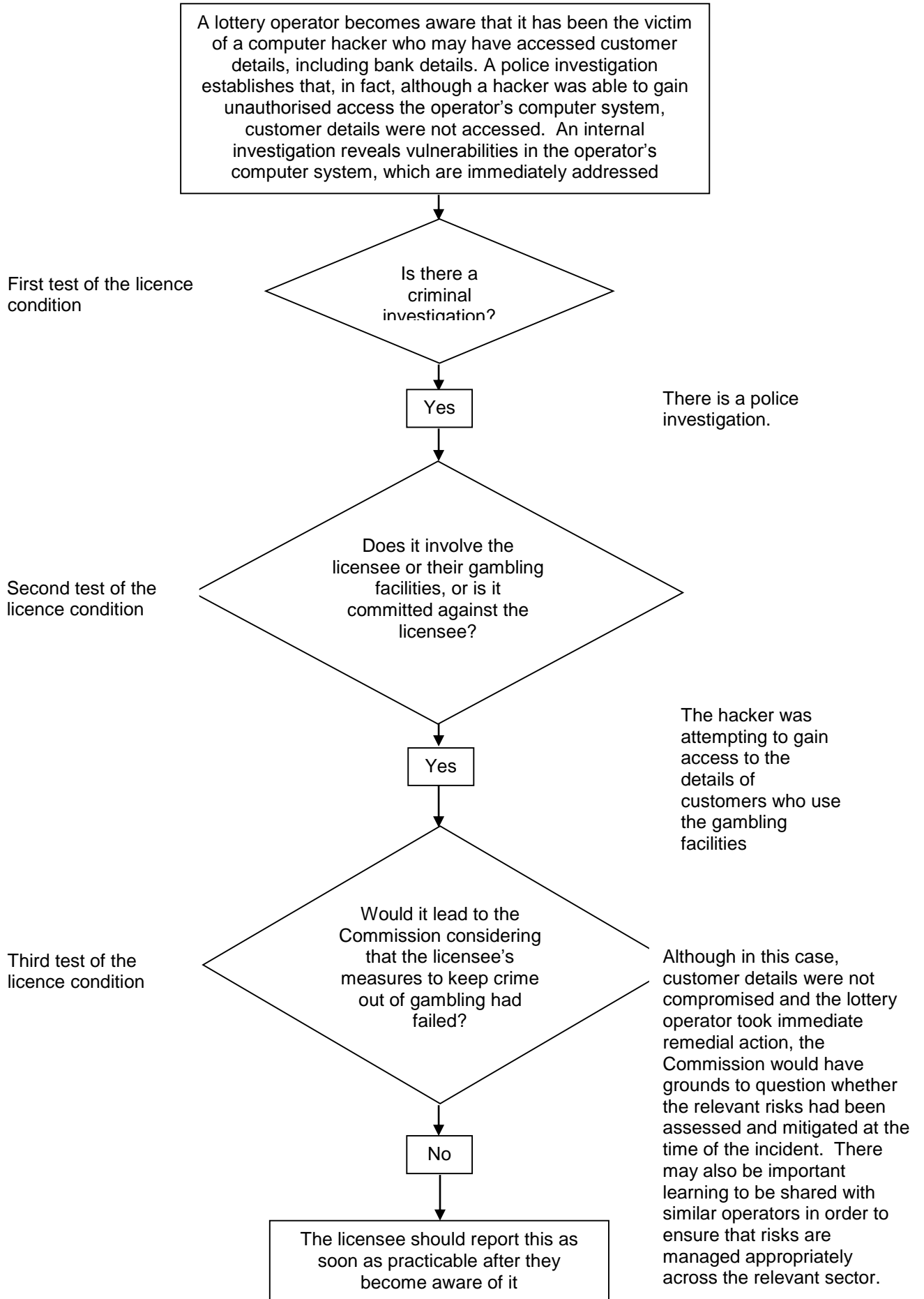


**Example 4**





**Example 5**



## **Keeping gambling fair and safe for all**

For further information or to register your interest in the Commission please visit our website at:  
**[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**

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