

Complaints and disputes: procedural, information provision and reporting requirements

September 2018

1 Introduction

1.1 This note:

- sets out the minimum standards we expect from all licence holders (except gaming machine technical and gambling software licences) regarding effective handling of customer complaints.
- provides advice to licence holders on the implementation of social responsibility (SR) code provision 6.1.1 (Complaints and disputes) as set out in our *Licence conditions and codes of practice (LCCP) (October 2018)*.
- summarises the reporting requirements that apply to all licence holders (except gaming machine technical and gambling software licences, as above).

1.2 The purpose of this note is to give guidance to licensees' policies, procedures and controls for handling customer complaints. This guidance aims to assist licensees with detail about how to comply with the LCCP and the wider legal requirements, and is intended to allow licensees flexibility as to how they comply. This guidance is not intended to be a substitute for legal advice and nothing in this document should be construed as such. Anyone requiring clarification on the regulatory issues contained in this document should seek their own independent legal advice.

1.3 In this guidance, the word 'must' denotes a legal obligation, while the word 'should' is a recommendation of good practice, and is the standard that the Commission expects operators to adopt and evidence. The Commission will expect operators to be able to explain the reasons for any departures from that standard.

1.4 The Gambling Commission (the Commission) has a duty to permit gambling as long as we think it is reasonably consistent with the three licensing objectives set out in the Gambling Act 2005 (the Act). These objectives are to:

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

1.5 Effective, transparent and fair customer complaints handling is an important part of achieving the second licensing objective. Licence holders must have fair, transparent and accessible procedures (including escalation to alternative dispute resolution (ADR)) in order to meet this objective. Licence holders are also required to report to the Commission information about complaints received and escalated, and outcomes of those complaints referred to ADR.

1.6 This advice note comes into effect at the same time as the amendments to LCCP (October 2018). The advice note is amended periodically to take account of what we learn from

licence holders, ADR providers and gambling consumers about emerging trends in complaints handling, or of changes to legislation. Where proposed amendments are minor, we will consult informally, for example, through industry trade bodies and with consumer groups. For more substantial changes, we will consult more formally.

2 Defining complaints and disputes

- 2.1** For the purposes of this advice note and for SR code provision 6.1.1, ‘complaint’ means an expression of dissatisfaction, whether spoken or written, about any aspect of the way the licensee conducts their licensed activities.¹ For example, a complaint:
- about the outcome of a gambling transaction
 - about the way a gambling transaction has been managed
 - that concerns the way the licence holder carries out its business in relation to the three licensing objectives.

Customers may also complain about commercial matters, such as the quality of the licence holder’s facilities. Where such complaints do not pose a risk to the three licensing objectives, they are not within the scope of what we oversee. The licence holder should decide how best to resolve such complaints.

- 2.2** ‘Disputes’ in this advice note and for the purposes of SR code provision 6.1.1 are those complaints that are about the customer’s gambling transaction (including management of the transaction) and have not been resolved at the first stage of the operator’s complaints procedure. Disputes may include, for example, those linked to the application of bonus offers or to other terms and conditions, account management, or the ability to access funds and winnings.

3 Complaints handling requirements

Complaints procedures

- 3.1** Licence holders should put into effect a clear, written complaints process. This process should be in plain English, simple to understand and easy for customers to find and use, both in gambling premises and on operator websites. Licence holders should consider whether to present this information or a summary of the information in a variety of ways, for example, to take account of customers who do not speak English as a first language or might otherwise find a written document hard to understand. Where licence holders produce marketing materials in languages other than English, they should also ensure complaints processes are available in those languages.
- 3.2** The process should make clear how a complaint can be made, to whom it should be addressed, and what essential information a customer needs to provide. Information about the complaints policy should also be set out within the licence holder’s general terms and conditions, including a link or signposting to the full policy if appropriate.
- 3.3** Licence holders should handle all complaints, except for those that can be resolved very readily on initial contact with the customer,² in accordance with the complaints procedure.

Receiving complaints

- 3.4** Licence holders should accept customer complaints made in person, spoken or written, over the telephone or via email where facilities exist, or via third party intermediaries/support tools such as the Resolver web tool.

¹ We are carrying out further work on the definitions of complaints and disputes, and this section may accordingly be subject to revision after this work is completed.

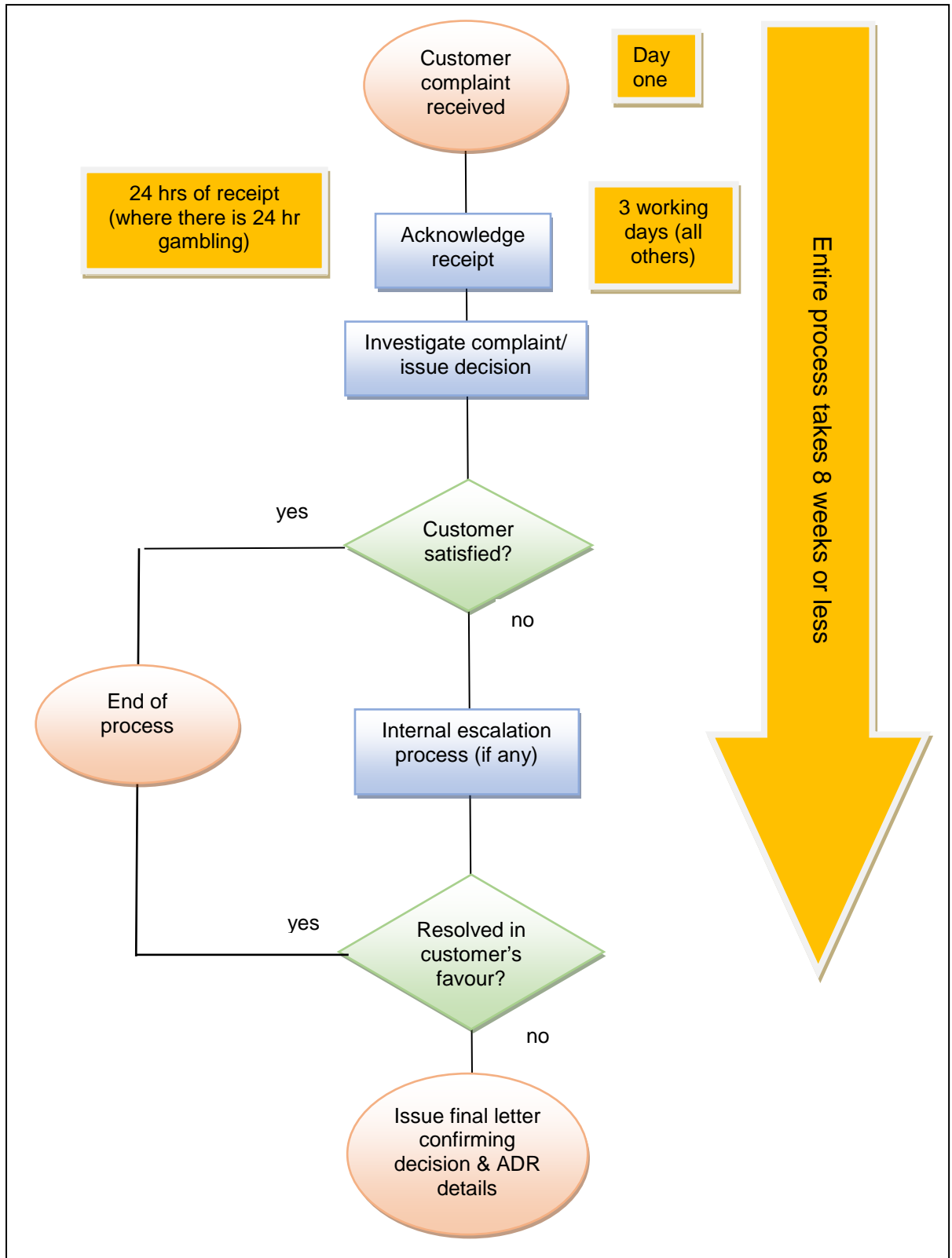
² For further information, see paragraph 6.1

- 3.5** Where licence holders offer systems such as ‘live chat’, chat operatives should be provided with sufficient training and information to be able to recognise where complaints raised in such a fashion should be redirected to a formal complaints procedure.
- 3.6** Customers may wish to raise complaints via social media platforms. It is for the licence holder to decide whether they are equipped to properly respond to complaints made by social media, or whether they should direct customers using such media to the formal complaints process. The complaints process should include information about whether customers may raise complaints via social media.
- 3.7** Although we wish to encourage operators to be open and transparent when handling complaints, we recognise that there may be occasions when licence holders may wish to ask customers not to share their complaint in public (eg, to the press or in online forums) before the licence holder has had opportunity to resolve the issue. For example, where there is an ongoing investigation, an operator may not wish information that may jeopardise the investigation to be made public. Licence holders should take care that any restrictions they impose do not prevent customers from seeking help or advice where they need it. Restrictions should only be put in place where the reasons for doing so are fair and transparent.

Time limits and escalation of complaints

- 3.8** As required by CMA’s [Unfair contract terms guidance](#), licence holders must not unfairly restrict access to complaints procedures by imposing unreasonable time limits for customers to make complaints. Licence holders should allow customers to raise complaints for at least six months from the date of the incident. Licence holders may wish to encourage customers to make complaints as soon as possible, but may not do this by including terms that prevent consumers from raising complaints at any point during that six month period.
- 3.9** Licence holders should provide customers with an acknowledgement of the complaint. Where licence holders offer 24-hour gambling facilities, this should be within 24 hours of the point when the licence holder receives the complaint. For other licence holders, this should be as soon as reasonably possible, but in any case within three working days of receiving the complaint.
- 3.10** Licence holders may choose to put in place procedures to escalate the complaint within the business, if the customer is not satisfied with the response they receive when they first make their complaint. As required by SR code provision 6.1.1.2, Licence holders must ensure that the entire complaints process, including any internal escalation, takes no longer than eight weeks from when they first received the customer’s complaint. SR 6.1.1.2 does make provision for licence holders to depart from the eight-week time-limit if the customer fails to engage with the complaints process in a timely manner. For example, where a customer fails to respond to a reasonable request for information within seven days, it may be reasonable to ‘stop the clock’ until such time as the customer responds. When the customer has responded, the ‘clock’ should be restarted from the same point as it was stopped.
- 3.11** The licence holder’s complaints process ends if the customer’s complaint remains unresolved eight weeks (taking into account any times that the ‘clock’ on the time period may have been paused) after the licence holder received it, or the customer and the licence holder reach a deadlock or final position in less than eight weeks. The licence holder should then write to the customer with a final letter to explain:
- the final decision
 - that this is the end of the operator’s complaints process, and
 - how to escalate their complaint to an independent ADR entity if they wish to do so.

Flowchart: Complaint process timescales



4 ADR requirements

- 4.1** As explained in the previous section, under SR code provision 6.1.1.2, licence holders must ensure they have arrangements in place for customers to be able to refer any dispute to an approved ADR entity – that is, an ADR entity on the list of ADR providers approved by the Commission - if not resolved to the customer's satisfaction. The customer must be given this option if their complaint remains unresolved eight weeks (taking into account any times that the 'clock' on the time period may have been paused) after the licence holder received it, though the option may be offered sooner if the customer and the licence holder reach a deadlock or final position in less than eight weeks.
- 4.2** The services of any such ADR entity must be free of charge to the customer, as required by the SR code provision.
- 4.3** Licence holders must not subject ADR services to any terms that are intended to remove or restrict the customer's right to bring proceedings against the licence holder in court. Licence holders may include terms that allow resolution of a dispute, if agreed by the customer, to be binding on both parties, as also required by SR code provision 6.1.1.4.
- 4.4** ADR entities may have terms that enable them to reject complaints that are frivolous or vexatious, in line with the requirements of [The Alternative Dispute Resolution for Consumer Disputes \(Competent Authorities and Information\) Regulations 2015](#) (the ADR Regulations), but licence holders should not refuse to refer disputes on such grounds.
- 4.5** Licence holders should ensure that they respond to requests for information about disputes from ADR entities in full and within ten working days. Licence holders should not unnecessarily delay providing the information that the ADR entity requires to look at the dispute.
- 4.6** ADR entities are able to consider disputes, that is, unresolved complaints that relate to the outcome of a customer's gambling transaction. This can include disputes about, for example, account management or the ability to access funds. ADR providers may consider whether a resolution should include compensation for customers, either for expenses incurred in pursuing the complaint or as a good will gesture for inconvenience or difficulty incurred.
- 4.7** As part of their considerations, we expect ADR entities to also consider the licence holder's terms and conditions that are relevant to the complaint, and to consider whether to apply relevant consumer protection legislation in making their decision.

5 Information to customers

- 5.1** Licence holders should ensure that the information they provide to customers includes information on how to make a complaint, and relevant contact details for doing so. It should also include information about how the complaint process works, and expected timescales for resolution.
- 5.2** Information on complaints processes should also include the identity (with contact details, which can be by way of a link from the licence holder's website) of the approved ADR entity to whom disputes can normally be referred, and where necessary, details of any limitation on the nature or subject matter that an entity can deal with, for example, if an entity only deals with a particular sector of gambling. This information should be provided to the customer if the complaint cannot be resolved by the licence holder.

- 5.3** Exceptionally, customers may request to use an ADR provider other than the one that is named by the licence holder. Licence holders may agree to use an alternative provider. However, if the alternative ADR provider is not on the list of providers approved by the Commission, Licence holders must inform the customer of the associated risks in using the alternative provider to allow the customer to make an informed choice.
- 5.4** For example, unapproved providers are not bound by the requirements of the ADR regulations, which require providers to be fair, transparent and open. Licence holders should also inform such customers that they may use the licence holder's named, approved ADR provider for the dispute even if they have already used an unapproved ADR entity.
- 5.5** Licence holders should provide a copy of the complaints policy to a customer on request, or when the customer makes a complaint.

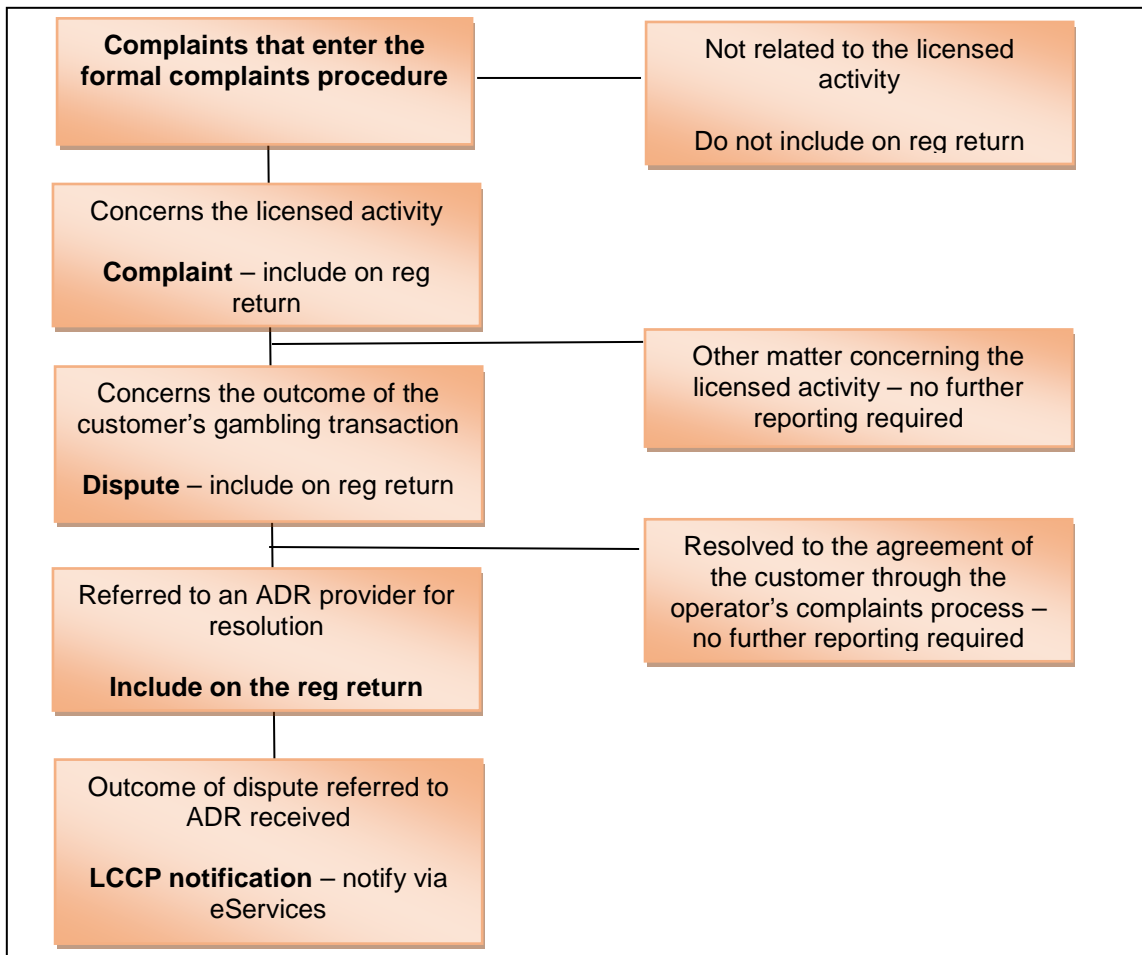
6 Information required by the Commission

- 6.1** SR code provision 6.1.1.7 requires licensees to keep records of customer complaints and disputes in such manner as the Commission may from time to time specify in advice or guidance. They must provide information to the Commission about customer complaints, disputes, the outcome of disputes referred to ADR, and court proceedings adverse to the licensee, also in such manner as the Commission may from time to time specify in advice and guidance. The information requirements contained in this section are therefore not discretionary for licence holders.
- 6.2** Licence holders must keep a record of all complaints that enter the formal complaints procedure. The licence holder does not need to report to us those complaints that are resolved very easily, for example, quickly via live chat, or at first contact in the premises, though the licence holder should still record these for their own purposes.
- 6.3** Licence holders must report the numbers of formal complaints they receive, and the number that are not resolved at the first stage of the complaints procedures (that is, those that become disputes) to the Commission. Licence holders must also report the number of disputes that they are aware have been referred to an ADR entity. This is part of the Regulatory Return reporting requirements, under Licence Condition 15.3.1.
- 6.4** Licence holders must arrange for a copy of the decision, or a note of the outcome of each dispute referred to an ADR entity to be provided to the Commission, either by the ADR entity or by the licence holder. It is the licence holder's responsibility to either provide this or ensure that it is being provided to us. This information should be provided by through our eServices portal as follows:
- **Type:** LCCP notifications
 - **LCCP Question:** ADR disputes³
- 6.5** Licence holders must notify us of any change in the identity of the ADR entity they use, including where they temporarily use an ADR entity other than the one named in their complaints policies, as required by Licence condition 15.1 (Reporting key events). This information must also be provided via eServices, using the following selections:
- **Type:** Key event
 - **Subtype:** Operator Key EVENT
 - **LCCP Question:** ADR entity
- 6.6** Licence holders must also arrange to notify to the Commission, as a key event, of any outcome adverse to the operator (in whatever jurisdiction) of any proceedings taken

³ The facility to upload supporting documents, such as the outcome of ADR disputes, will be available by the time this note comes into force on 31 October 2018

against the licence holder by a customer in relation to a gambling transaction, but excluding proceedings allocated to the County Court small claims track or equivalent in jurisdictions outside England and Wales.

Flowchart: Complaints and disputes regulatory return requirements



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