

GAMBLING COMMISSION

Petfre (Gibraltar) Ltd t/a Betfred.com

Settlement following a licence review - public statement

June 2016

The issues identified in this statement are likely to form the basis for future compliance assessments of gambling operators

Contents

1 Introduction	3
2 Identified issues	4
3 Voluntary settlement	7
4. Conclusion	8
APPENDIX – notes for editors	9

1 Introduction

The Gambling Commission is calling on gambling operators to learn lessons from its investigations into failings at Petfre (Gibraltar) Ltd, trading as Betfred.com (Betfred).

The Commission's investigations began in 2015. On 11 March 2016 we commenced a review of Betfred's operating licence, with a view to exercising our formal regulatory powers in order to achieve a prompt and appropriate regulatory outcome in relation to the failures which had been identified.

We commenced the review under section 116(2)(a) and (c)(i) and (ii) of the Gambling Act 2005 (the Act) as we considered that Betfred had breached a condition of its operating licence, suspected that Betfred may be unsuitable to carry on the licensed activities and believed that a review would be appropriate.

As a licensed gambling operator, Betfred has to undertake its gambling activities in compliance with the Act and follow the licensing objectives set out in the Act, which are:

- 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 people from being harmed or exploited by gambling.

Furthermore, licensed remote casinos have a responsibility to comply with the requirements of the Money Laundering Regulations 2007 (the Regulations).

Our concerns related to a number of weaknesses identified in the anti-money laundering and social responsibility controls used by Betfred when dealing with an online customer and Betfred's consequential failure to act in accordance with the Regulations.

Specifically, we found that Betfred:

- did not adhere to the Money Laundering Regulations 2007
- did not put into effect adequate policies and procedures intended to promote socially responsible gambling
- did not put into effect adequate policies and procedures for customer interaction with specific provision for customers designated as 'high value', 'VIP' or equivalent.

As outlined in our *Licensing, compliance and enforcement under the Gambling Act 2005: policy statement*, during a licence review we will consider whether any settlement put forward by an operator fulfils our regulatory obligations and removes the requirement for formal consideration.

Betfred has accepted that it acted in a manner which fell short of that required by the Commission and assured us that it has made progress in enhancing its policies and procedures. Betfred highlighted its commitment to the licensing objectives and confirmed that, as a consequence of our findings, it is dedicating significant time and resources to further improving its anti-money laundering and social responsibility policies and procedures.

In accordance with our *Statement of principles for licensing and regulation*, we accepted a proposal for settlement from Betfred and concluded the licence review accordingly.

The settlement consists of the following elements:

- Betfred agrees to make payment of £787,500, with £443,000 to be paid to the victims of criminal activities and the remainder, which constitutes a sum in lieu of a financial penalty that might otherwise have been imposed by the Commission, to be spent on socially responsible causes as agreed with the Commission
- Betfred will pay the Commission's costs of the investigation, amounting to £30,240
- Betfred will arrange for an independent third party review and audit of its anti-money laundering and social responsibility policies and procedures to include customer due diligence, enhanced due diligence and on-going monitoring practices
- Betfred will review and update its anti-money laundering and social responsibility policies and procedures to reflect the findings of the Commission and will incorporate into them any further recommendations made by the independent third party following its review and audit
- Betfred agrees to the Commission making this public statement reflecting the findings and outcomes of the investigation in order to draw the issues to the attention of the wider industry and provide an opportunity for others to improve.

The gambling industry should be on notice that the issues identified in this statement are likely to form the basis for future Commission compliance activity and should consider them in light of their own operating processes and procedures.

2 Identified issues

We were notified by West Yorkshire Police that they were investigating an individual on suspicion of theft of over £800,000 from their employer. The individual had been arrested and an examination of the individual's banking records - which were not available to Betfred - revealed that a significant amount of the proceeds of this theft had been spent on online gambling. By far the largest portion spent on gambling had been used to gamble on Betfred.com. In January 2016, after pleading guilty to theft, the customer was sentenced to three years and four months' imprisonment for the theft of £856,703.80 from their employer.

The individual was an online customer with Betfred between 2013 and 2015. Betfred confirmed that the customer was considered to be a VIP player and would have been in its top 5% of customers in terms of spend and profit.

Following an investigation, we found that Betfred had failed to meet its anti-money laundering and social responsibility obligations in a number of key areas, resulting in licence condition breaches. These breaches were not just in relation to the individual identified, but also more widely. This demonstrated weaknesses in Betfred's approach to anti-money laundering and social responsibility. Betfred's failings are explored in more detail below.

Failure to adhere to the Money Laundering Regulations 2007

Betfred failed to adhere to the Regulations and therefore breached a specific condition attached to its operating licence which requires it to put in place and implement the measures described in Parts 2 and 3 of the Regulations.

Customer due diligence

Betfred did not comply with regulations 7(1) and (3) which require it to determine the extent of customer due diligence measures on a risk-sensitive basis.

Betfred failed to make adequate enquiries about the source of the funds the customer used to gamble on Betfred.com. The customer was a high spending customer, gambling remotely, and as such presented a higher risk of money laundering which Betfred should have recognised. Despite the risk presented, Betfred did not take sufficient steps to identify the source or legitimacy of the customer's funds.

The enquiries which Betfred did make in relation to the customer were made on an informal, ad-hoc basis and were unrecorded. Additionally, irregular deposits shown on a bank statement provided by the customer to Betfred should have prompted further enquiries.

Betfred believed the customer was a professional gambler because the individual was familiar with the website and jargon. Betfred also believed that the individual had won significantly with another operator. This belief appears to have been based on the opinion of staff members; we found no evidence or information to substantiate this belief or to identify this as the true source of the customer's funds.

The significant losses on the customer's account should have caused Betfred to challenge its beliefs; however Betfred was unable to supply us with any evidence which supported its assumptions and beliefs.

We expect operators to demonstrate, with supporting evidence, that a risk assessment has been undertaken prior to entering into business relationships with customers and that adequate customer due diligence is conducted in order to ensure that a customer's transactions are consistent with the level of risk presented.

Ongoing monitoring

Betfred failed to conduct sufficient ongoing monitoring of its business relationship with the customer contrary to regulation 8. For example:

- it did not adequately scrutinise the customer's transactions on a risk-sensitive basis to ensure that the extent of the ongoing monitoring it conducted was appropriate to the risk of money laundering presented
- it did not undertake adequate additional due diligence checks, including checks into the customer's source of funds, when the customer's deposits and gambling activity increased, when the customer's losses significantly increased, or when the customer was designated as a 'VIP' customer.

We expect operators to be able to demonstrate that the extent of the ongoing monitoring undertaken is conducted on a risk-sensitive basis. We also expect the records retained by operators to reflect this, with risk profiles being properly maintained.

Enhanced due diligence

Betfred failed to apply enhanced due diligence and ongoing monitoring properly on a risk-sensitive basis contrary to regulation 14 of the Regulations, which includes the requirement to apply additional measures to establish and verify the customer's identity and to scrutinise the transactions undertaken by the customer (including the source of funds) in situations which, by their nature, present a higher risk of money laundering.

Betfred's relationship with the customer ought to have been assessed as presenting a high risk of money laundering. The customer was a remote customer whose spend placed them in the top 5% of customers in terms of profit. Despite this, Betfred did not take steps to satisfy itself of the source or legitimacy of the customer's funds. For example:

- Betfred incorrectly believed that the customer was a director of a successful and established company. Open source checks we conducted disproved this.
- A bank statement provided by the customer, for the purposes of confirming their address, also showed four payments from the customer's employer of £14,792. An attempt had been made to delete the employer's account details and these payments. Betfred asked no further questions. Betfred continued to rely on this information as proof of source of funds

- Betfred claimed that it looked at the value of customer's properties and considered whether they were proportionate to their spending. It was clear to us that checks on the customer's property revealed that its value was not appropriate to their spending.

We expect operators to be able to demonstrate that the level of enhanced due diligence and ongoing monitoring applied to customers has been determined on a risk sensitive basis and that additional measures have been applied to establish source of funds in situations which present a higher risk of money laundering.

Record keeping

Betfred failed to keep full records of the evidence and supporting documents it considered as part of its due diligence, contrary to regulation 19 of the Regulations. It stated that its staff had spoken to the customer on a number of occasions and this had contributed to the view that he was a professional gambler. No records were retained following these interactions with the customer.

Also, there were inadequate records of any customer interaction with the customer. This is also indicative of a lack of adequate due diligence measures.

Policies and procedures

Betfred failed to establish and maintain appropriate risk-sensitive policies and procedures, contrary to the requirements of regulation 20 of the Regulations. This is evident from Betfred's failings. Furthermore, the following shortcomings were identified in relation to Betfred's written policy document:

- out-of-date references
- an over-simplistic and inaccurate view of money laundering
- no guidance to employees on how to recognise suspicious transactions in remote gambling
- a focus on individual employee responsibility to the exclusion of Betfred's corporate responsibility
- no reference to the need to identify customers, or how to identify their source of funds
- no reference to the obligation to keep records or record decisions made.

We expect operators to establish and maintain written risk-based policies and procedures which relate to: customer due diligence and ongoing monitoring; reporting; record keeping; internal control; risk assessment and management; training; the monitoring and management of compliance with such policies and procedures; and their internal communication.

Compliance with social responsibility requirements

Social responsibility code provision 3.1 as outlined in the *Licence conditions and codes of practice* (LCCP) requires licensees to put into effect policies and procedures intended to promote socially responsible gambling.

The customer's gaming records displayed several behaviours which were indicative of potential problem gambling, such as:

- consistently betting in increasing amounts
- large sums lost in short time periods
- finishing sessions with his balance at or close to zero
- chasing losses, with stakes increasing in value as losses increased
- using all available funds for gambling.

Despite this, there were no recorded customer interactions with the customer from a social responsibility perspective.

As a result, we consider that Betfred failed to adhere fully to social responsibility code provision 3.1 of the LCCP and this is a breach of a condition of its operating licence.

Social responsibility code provision 3.4.1 requires licensees to put into effect policies and procedures for customer interaction where they have concerns that a customer's behaviour may indicate problem gambling. This must include specific provisions in relation to customers designated by the licensee as 'high value', 'VIP' or equivalent.

After being upgraded to a VIP customer, the customer's play was not subject to the reactive player monitoring which applied to other customers. Additionally, Betfred's written policies and procedures made no provisions for how VIP customers, who may be problem gamblers, are identified or managed and the customer was often awarded bonuses of over £1,000 when his balance reached zero.

When combined with the inadequate due diligence and customer interaction, this may have encouraged the customer to continue to gamble when they might otherwise have stopped.

As a result, we consider that Betfred failed to adhere properly to social responsibility code provision 3.4.1 and this is a breach of a condition of its operating licence.

Questions for operators to consider

- Are we confident we can evidence all of the information we rely on when assessing a customer's risk?
- Are we conducting appropriate ongoing monitoring and how can we evidence this?
- Is our enhanced due diligence and ongoing monitoring applied to customers on a risk-sensitive basis?
- Are our policies and procedures up to date and effective?
- How do we ensure we adhere to social responsibility code provision 3.1 of the *Licence conditions and codes of practice*?

3 Voluntary settlement

As outlined in our *Licensing, compliance and enforcement under the Gambling Act 2005: policy statement*, during a licence review, if a licensee makes full disclosure of all the relevant facts relating to the matter, we will consider whether our investigations need to continue. We will also consider whether any settlement put forward by the operator fulfils our regulatory obligations and removes the requirement for a formal consideration.

When agreeing the terms of a settlement, we will carefully consider our statutory duties and other relevant matters, such as the importance of sending clear, consistent messages through enforcement action, and will only settle in appropriate cases where the agreed terms of the decision result in acceptable regulatory outcomes.

As licence reviews can be time consuming and expensive for both the Commission and licensees, the Commission will seek, where appropriate, to fulfil its statutory obligations and pursue the licensing objectives through means that stop short of formal licence reviews under section 116 of the Act. However, should a suitable alternative to a review not be put forward by the operator, as was the case here, the Commission will have no option but to resort to its formal regulatory powers. The cost of conducting a review will inexorably increase as time goes on; to reflect this, the later a settlement is proposed the more onerous the settlement terms are likely going to need to be.

During the review, Betfred approached the Commission and proposed a settlement. It accepted our findings regarding its failings and assured us that it has made progress in enhancing and improving its policies and procedures and that its insight into its failings formed the basis of this. Betfred has stated that it does not wish to profit from the proceeds of crime and highlighted its commitment to the licensing objectives.

In these circumstances we considered that, after full disclosure of all the relevant facts, there had been sufficient understanding of the nature and gravity of the failings by Betfred, which, along with the assurances provided, made settlement an appropriate regulatory outcome.

In accordance with our *Statement of principles for licensing and regulation* we have accepted a proposal for settlement from Betfred and have concluded the licence review. The settlement consists of the following elements:

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- Betfred will review and update its anti-money laundering and social responsibility policies and procedures to reflect our findings and will incorporate into them any further recommendations made by the independent third party following its review and audit
- Betfred agrees to this public statement reflecting the findings and outcomes of the investigation in order to draw the issues to the attention of the wider industry and provide an opportunity for others to improve.

We will monitor the progress in delivering the terms of this settlement.

4. Conclusion

We consider that this case provides valuable learning for remote operators, who should review the conditions of their licences in light of these matters and take a critical approach to assessing their own policies and procedures.

Gambling Commission June 2016

Keeping gambling fair and safe for all

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APPENDIX – notes for editors

Money laundering and the gambling industry

Under the Gambling Act 2005 (the Act) the Commission is required to permit gambling in so far as is reasonably consistent with the following licensing objectives:

- to keep crime out of gambling
- to ensure that gambling is conducted fairly and openly
- to protect children and other vulnerable people from being harmed or exploited by gambling.

Keeping crime out of gambling

One of the key aspects of keeping crime out of gambling is the prevention of money laundering. Money laundering is defined in section 340 of the Proceeds of Crime Act 2002 (POCA). It includes **any** activity concerning the proceeds of **any** crime. It can cover, for example, the 'washing' of funds – that is, using a series of transactions to make illegitimate funds appear legitimate – and also criminal spend, where the aim of the transaction is not necessarily concealment or conversion. Experience from the Commission's growing body of casework in this area suggests that this is a point that is often misunderstood by gambling operators.

If gambling businesses handle any proceeds of crime they may commit one of the principal money laundering offences under POCA. However, a defence may be provided if an officer nominated under POCA (commonly known as the money laundering reporting officer or MLRO, but referred to in this statement as the 'nominated officer') makes a report to an appropriate law enforcement agency, usually the National Crime Agency. This reporting defence includes a statutory mechanism which allows the appropriate law enforcement agency to either agree to the transaction going ahead (to provide consent), or to prevent it.

Under the terms of POCA, the reporting defence is only available if employees make a report to the nominated officer:

- where they know
- where they suspect
- where they have reasonable grounds for knowing or suspecting,

that a person is engaged in money laundering.

Gambling operators outside the regulated sector (in the gambling industry the regulated sector currently includes non-remote and remote casinos) are not obliged to appoint a nominated officer to receive internal reports relating to money laundering. The Commission, however, advises operators to do so as this will help them meet their obligations under POCA more effectively¹.

Whilst all gambling businesses are bound by the terms of POCA, casinos are subject to more detailed rules set out in the Money Laundering Regulations 2007 (the Regulations). The Regulations require companies which run casinos to have policies and procedures in place in relation to risk assessment and management. The risk-based approach involves a number of discrete steps in assessing the most proportionate way to identify and mitigate the money laundering risks faced by the company. These steps require the company to:

- identify the money laundering risks that are relevant to the company
- design and implement policies and procedures to manage and mitigate these assessed risks
- monitor the effective operation of these controls
- record what has been done and why.

A risk-based approach focuses the effort where it is most needed and will have most impact. It requires the full commitment and support of senior management, and the active co-operation of all employees.

¹ See [Duties and responsibilities under the Proceeds of Crime Act 2002 Advice to operators](#)

The Regulations state that companies which run casinos must:

- identify the customer and verify the customer's identity on the basis of documents, data or information obtained from a reliable and independent source²
- undertake customer due diligence when forming a business relationship or when a customer reaches the applicable threshold of purchasing or exchanging casino chips with a total of more than €2,000 or pay more than €2,000 for the use of gaming machines in a 24-hour period³
- undertake more thorough checks, referred to as 'enhanced customer due diligence and enhanced ongoing monitoring' (enhanced due diligence), in any situation which, by its nature, can present a higher risk of money laundering⁴
- undertake ongoing monitoring of customers, which means scrutinising transactions undertaken throughout the course of the relationship (including, where necessary, the source of the customer's funds) to ensure that the transactions are consistent with the company's knowledge of the customer, their business and risk profile⁵
- keep the documents, data or information obtained for the purpose of applying customer due diligence measures up-to-date⁶
- keep supporting records, including those in respect of a business relationship or occasional transaction which is the subject of customer due diligence measures or ongoing monitoring for a period of five years⁷
- terminate any existing business relationship where a company is unable to apply customer due diligence measures in accordance with the Regulations⁸
- establish and maintain appropriate and risk-sensitive policies and procedures relating to:
 - customer due diligence measures and ongoing monitoring
 - reporting
 - record-keeping
 - internal control
 - risk assessment and management
 - the monitoring and management of compliance with, and the internal communication of, such policies and procedures

in order to prevent activities relating to money laundering⁹.

² Regulation 5

³ Regulation 10

⁴ Regulation 14

⁵ Regulation 8(2)(a)

⁶ Regulation 8(2)(b)

⁷ Regulation 19

⁸ Regulation 11

⁹ Regulation 20