

## Serve & Protect

### United Kingdom

The UK boasts one of the world's largest online gambling markets. The remote sector saw revenues of €6.9bn for the 2020-2021 fiscal year. However, the UK gambling industry is under increasing pressure from anti-gambling groups to do more to protect vulnerable gamblers whilst a review of the Gambling Act is underway to look specifically at the thorny issue of problem gambling.

**“We want to look at whether our regulatory framework is effective and whether further protections are needed. The review is about using the evidence to assess whether we have the balance of regulation right.”**

Nigel Huddleston, Minister for Sports, Tourism and Heritage.

The Gambling Act of 2005 changed the UK market significantly. Prior to the Act the industry operated under the Betting and Gaming Act of 1968 and gambling was seen as an activity that should be 'tolerated' but not 'stimulated'.

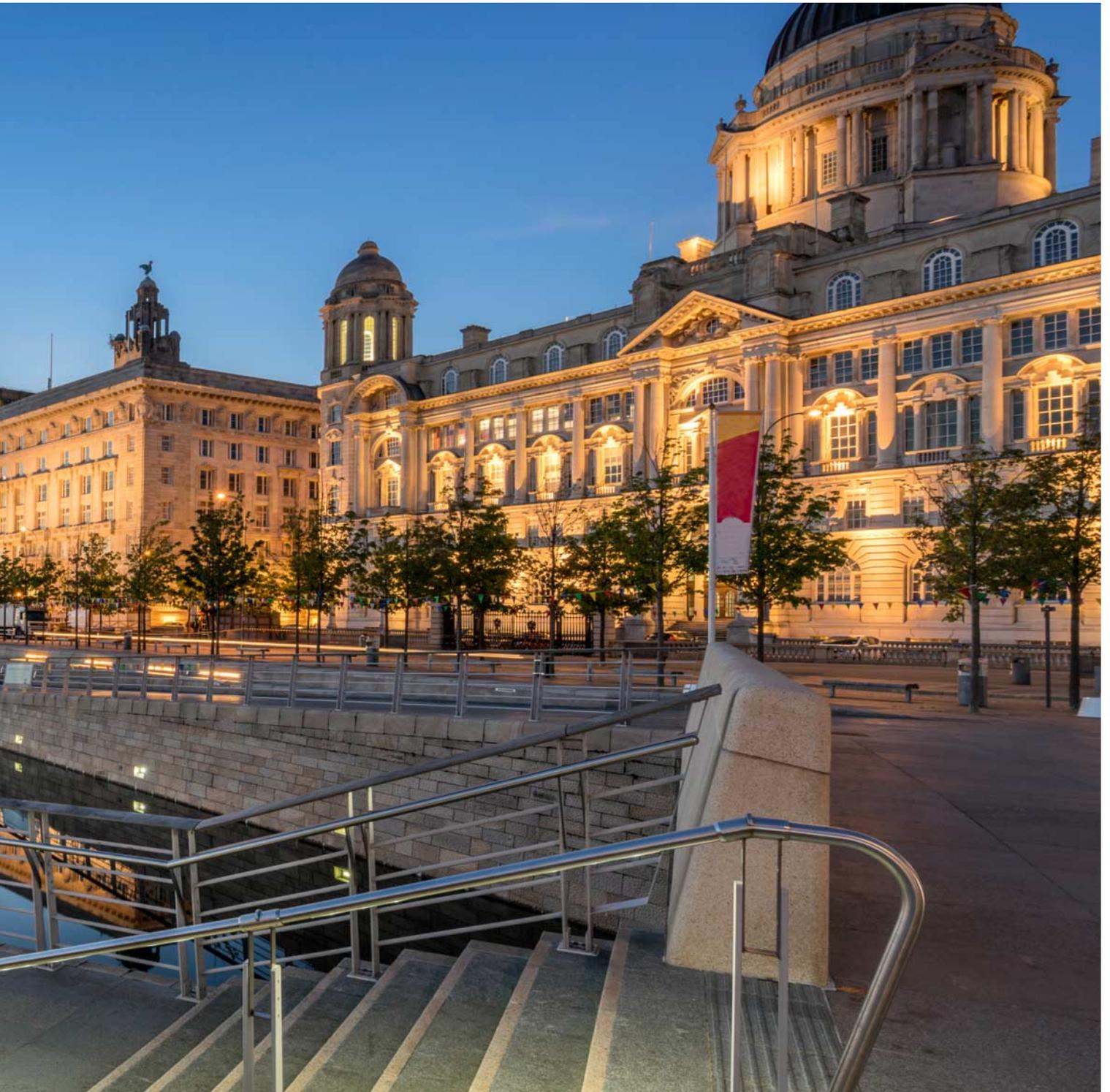
All that changed when the Home Office commissioned a review of gambling, the Budd Report of 2001 was published which highlighted plans to liberalise the UK gambling market and it was on some of these proposals that the 2005 Act was based.

This Act increased the opportunities for adults to gamble and liberalised legislation and the general regulatory approach. There were some big changes including the removal of the 24-hour delay for casino memberships, advertising was permitted across all media outlets and new

Super Casinos were opened. Gambling grew whilst the advancement of new technology, particularly smart phones and internet devices, meant gambling was suddenly available 24/7 and to a bigger, perhaps less supervised, audience.

And so, 15 years after the Gambling Act came into force the government now wants to 'check in' on the situation and aims to publish a White Paper on the UK gambling market to 'make sure it is fit for the digital age.' The paper will look at overhauling the UK gambling market with a strong reference to protecting vulnerable gamblers.

The rapid development of online gambling is one of the main reasons all three main UK political parties undertook pledges to reform gambling



legislation. Back in 2005 it was estimated that just 13.9 per cent of the world population used the internet. In 2019 in the UK, it was estimated that 94.6 per cent of the population used the internet.

In 2019 the Conservative party promised to review the gambling laws in its general election manifesto after concerns were raised amongst politicians and campaigners about the way the £14bn a year gambling industry is regulated.

Nigel Huddleston, Minister for Sports, Tourism and Heritage said at the time: “We want to look at whether our regulatory framework is effective and whether further protections are needed. The review is about using the evidence to assess whether we have the balance of regulation right.”

The publication of the White Paper was expected to be released at the end of 2020, however this was later pushed back until 2021. This has now been delayed even further as the government wanted to wait until a separate decision was made regarding the new licence for the National Lottery. It has been suggested that the review will not be published until May this year.

The bid for the fourth lottery licence was launched in August 2020 and it was announced last month that Camelot has lost the monopoly it has held since the lottery’s inception in 1994 and the new licence has been awarded to Czech owned, Allwyn, who will take over operations of the lottery in 2024.

The delay of the review is also partly down to a reshuffle in the ministry after former Minister of

the DCMS John Whittingdale was replaced by Chris Philip in September last year.

Philip has hinted at tighter requirements for operators to protect consumers including strict interventions and affordability checks to prevent addicts and vulnerable people from falling into financial problems, alongside a fee increase for the Gambling Commission for their work in regulating the industry.

#### **EARLIER CHANGES**

These changes will build on a series of new measures which came into force in October last year to strengthen the protections and control for those who gamble on online slots games in particular. Slot games have the highest average loss per player of all online gambling products.



**The new rules amended the Gambling Commission's Remote Gambling and Software Technical Standards (RTS) and included a ban on features that speed up play or give the illusion of control over the outcome; a minimum game cycle of 2.5 seconds and a ban on auto play and sounds or imagery to give the illusion of a win when the return is equal to, or less than, the total amount staked.**

According to data from the Gambling Commission (UKGC), during Covid the average spend per slots player was £67 per month compared to £36 for casino games and £45 for real event betting. The new rules amended the Gambling Commission's Remote Gambling and Software Technical Standards (RTS) and included a ban on features that speed up play or give the illusion of control over the outcome; a minimum game cycle of 2.5 seconds and a ban on auto play and sounds or imagery to give the illusion of a win when the return is equal to, or less than, the total amount staked.

Other changes included a requirement that operators must display to the player total loss or

wins and the time played during an online slots session, plus a permanent ban on operators providing a facility for customers to cancel pending withdrawal of winnings. The gambling system must prevent multiple slots games from being played by a single account at the same time. This is part of the UKGC's Single Customer View (SCV) project.

The aim of the SCV is to create a single industry wide solution to help reduce gambling harm, in particular for customers who have multiple online accounts. The SCV solution would enable a view of player's online gambling behaviour.

The UKGC says online customers hold on

average three accounts. Meanwhile, since 2019, a Review of Gaming Machines and Social Responsibility Measures led to the reduction in the maximum stake on B2 machines (FOBTs) in betting shops from £100 to £2 whilst the Gambling Commission also tightened rules on the age and identity checks which operators must do before players are allowed to gamble online and improved customer interaction practices. More recently, in April 2020, gambling on credit cards was banned for all gambling sectors (except the sale of lottery tickets in shops) and it is now also mandatory (since March 2020) for online operators to be signed up with the national online self-exclusion scheme, GAMSTOP.



## GGY FOR ALL GAMBLING SECTORS 2017-2021

SECTOR	4/2017-3/2018	4/2018-3/2019	4/2019-3/2020	4/2020-3/2021
<b>Land-based</b>				
Arcades	£424.8m	£443.05m	£425.6m	n/a
Betting	£3.26bn	£3.26bn	£2.40bn	n/a
Bingo	£680m	£674.3m	£575.2m	n/a
Casino	£1.18bn	£1.05bn	£1.01bn	n/a
<b>TOTAL</b>	<b>£5.56bn</b>	<b>£5.42bn</b>	<b>£4.41bn</b>	
<b>Remote</b>				
Betting	£2.25bn	£2.02bn	£2.32bn	£2.64bn
Bingo	£163.9m	£175.9m	£175.8m	£189m
Casino	£2.93bn	£3.07bn	£3.17bn	£4.01 bn
<b>TOTAL</b>	<b>£5.34bn</b>	<b>£5.26bn</b>	<b>£5.68bn</b>	<b>£6.9bn</b>
<b>Remote/non remote</b>				
Lotteries	£502.9m	£540.4m	£612.6m	
National Lottery	£3bn	£3.07bn	£3.39bn	£3.53bn
<b>TOTAL</b>	<b>£14.41bn</b>	<b>£14.32bn</b>	<b>£14.11bn</b>	

# Reports

## UK - ONLINE UPDATE

The GAMSTOP scheme was launched in 2018 and enables players to self exclude from online gambling websites and apps for a period of six months, one, or five years. It's a multi-operator scheme and requires players to request GAMSTOP to remove them once the time period of self exclusion has elapsed.

The scheme was initially voluntary for operators but in March 2020 became a licensing condition meaning more than 200 operators who had not previously integrated the scheme would need to do so by this date. These processes were part of the UKGC's National Strategy for Reducing Gambling Harms.

The Betting and Gaming Council also introduced a number of measures to address the issue of problem gambling including increased safer gambling messaging, cooling off periods on gaming machines and ID and age verification checks.

Operators have also increased their donations to gambling research and treatment organisations and in 2019 took voluntary action in response to public concern and banned televised betting advertising during live sports before the watershed. Operators committed to ensuring at least 20 per cent of their TV adverts promoted safe gambling.

However, many feel these steps are not enough and further action is needed particularly with a rise in the number of high-profile cases of suicides associated with gambling problems.

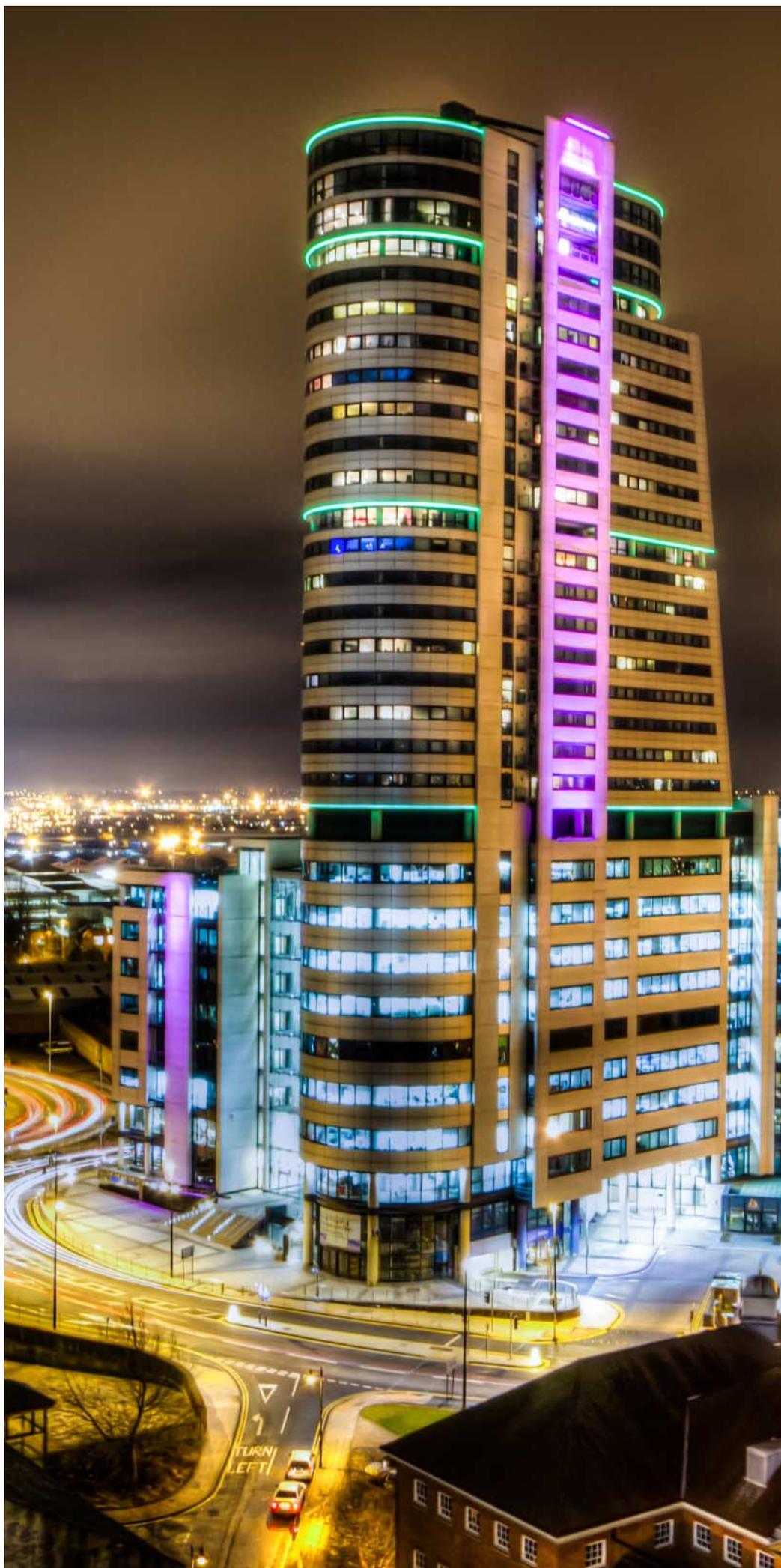
### GAMBLING ISSUES

The government estimates there are around 400,000 problem gamblers in the UK with a further two million at risk of developing a problem. Around 55,000 children have been categorised as problem gamblers whilst it is reported that one in four adults who gamble are being harmed with increased reports of suicides and mental health issues related to gambling.

The charity, Gambling with Lives, estimates suicides related to gambling ranges between 250 and 650 every year in the UK – a minimum of one per day and representing between four and 11 per cent of the total number of suicides.

Gambling is limited to those over the age of 18 and last year the age limit for the National Lottery was also raised from 16 to 18.

A report in 2020 by the Select Committee on the Social and Economic Impact of the Gambling Industry said: "In 2012, 14 per cent of people took part in online gambling, seven years later the figure was 21 per cent, half as many again. The choice of games is bewildering, and the house edge generally higher. There is no limit on when or where individuals can gamble, age is harder to verify and supervision is difficult. The gambling companies have no incentive to drive customers to financial ruin, but they have every



## SPORTS BETTING DATA

CATEGORY	TURNOVER 4/2019- 3/2020	GGY 4/2019- 3/2020	TURNOVER 4/2020- 3/2021	GGY 4/2020- 3/2020	% MARKET SHARE
Sports Betting	£26.55bn	£2.32bn	£27.2bn	£2.64bn	
Cricket	£761.4m	£43.46m	£520.7m	£31.8m	1.3
Dogs	£672.3m	£73.15m	£646m	£77.37m	2.9
Financials	-	-	-	-	-
Football	£10.15bn	£1.13bn	£10.18bn	£1.22bn	46
Golf	£219m	£16.41m	£243.9m	£21.38m	0.8
Horses	£9.13bn	£654.18m	£9.61bn	£856.1m	32.4
Other	£2.95bn	£217.7m	£3.88bn	£269m	10.2
Tennis	£1.93bn	£116.86m	£1.12bn	£66.23m	2.5
Virtual	£713.4m	£76.45m	£1bn	£102.62m	3.9

incentive to keep them gambling even when problems are looming. The greater the problem, the higher the profit.

“For every problem gambler, six other people are adversely affected by gambling related harm: a total of two million people. This can lead to the breakup of families, loss of employment, loss of homes, crime, financial ruin and in the worst cases, suicide. There is also a cost to society: lost tax receipts, benefit claims, welfare and the cost to the NHS and the criminal justice system.”

A Gambling Commission Gambling Addiction Survey in 2018 claimed low risk gamblers contributed 17 per cent of the gambling industry's profits compared to problem gamblers who contributed almost 24.5 per cent. Non-problem gamblers contributed approximately 41 per cent.

In 2019, the Department of Health and Social Care commissioned the Public Health English

The PHE report estimated that up to 0.5 per cent of the population have a problem with gambling (which has remained fairly stable for the last 20 years) whilst 3.8 per cent could be at-risk whilst another seven per cent are affected negatively by another person's gambling with a high estimate of up to 2.1 million at risk from gambling.

It is said the UK gambling industry is roughly the same size as the agricultural industry. Nearly half of the adult population (around 24.5 million people) gamble in some form or other each month.

Prior to the Gambling Act of 2005, gambling in the UK was tolerated, but not really encouraged. However, the Act boosted the gambling industry's role as a valid leisure activity and over the last 15 years the industry has embraced this, and it has grown significantly. Industry revenues, for example, have increased from around £8bn annually back in 2009 to over £14bn currently.

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(PHE) to undertake a study on the evidence on the harm gambling can cause ranging from debt, health related issues and unemployment.

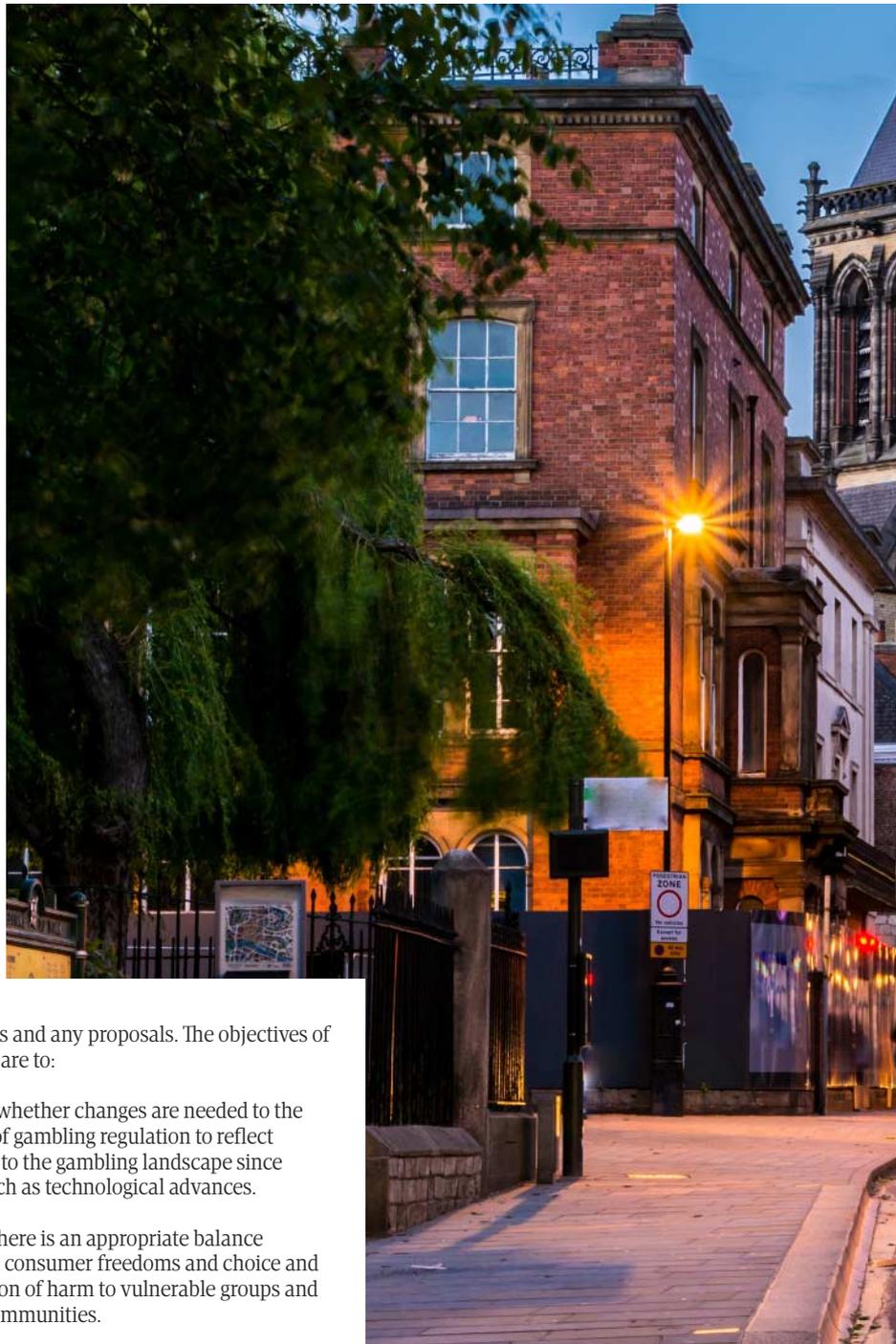
This study, published in September 2021, stated that harms associated with gambling caused an economic burden of around £1.27bn between 2019 and 2020 in England alone, of which £647.2m is a direct cost to the government. The report found a link between higher levels of alcohol consumption and harmful gambling and a link between gambling and mental health issues.

Although the majority of the land-based sectors have remained fairly consistent with an average annual GGY of around £4m for arcades, £3m for betting and £600m for bingo; the casino sector has seen a growth rise from around £700m back in 2009 to £1bn currently.

The biggest growth areas however are the remote gambling sectors which between them saw a total of £6.9bn in GGY. The remote betting sector has grown from just over £600m in 2010 to £2.6bn in 2020 whilst remote casino GGY has grown from £33m in 2009 to over £4bn in 2020.

“12 per cent of the people in our research who do engage in some gambling don’t think they engage in gambling at all. They’re not even aware of what might constitute gambling, so understanding is still quite far adrift for the consumer base. It’s very, very broad and gambling in some way or another is common and like other licensed activities, millions take part and suffer no ill effects.”

Andrew Rhodes, Chief Executive Officer,  
UK Gambling Commission



During the GambleAware Conference in December last year, UKGC’s Chief Executive, Andrew Rhodes, said: “If we take out the National Lottery then five per cent of gamblers account for 90 per cent of the gross gambling yield, the money the gambling industry makes. 45 per cent of people who gamble think they gamble less than most others. I find that really interesting because the behaviour is very similar to drivers who all think they drive better than everyone else, but it is interesting if such a large proportion of people think they gamble less than others, it means that the understanding of what gambling patterns are like is not actually great amongst consumers.

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The UKGC is currently working on a Prevalence and Participation data report to provide a more accurate picture on gambling data and looking at levels of gambling activity, problem gambling rates and gambling participation in the country.

## THE REVIEW

The review is being led by the ministers at the DCMS and a call for evidence ran for 16 weeks closing in March 2021. From this the government will access the data and set out its

conclusions and any proposals. The objectives of the review are to:

- Look at whether changes are needed to the system of gambling regulation to reflect changes to the gambling landscape since 2005 such as technological advances.
- Ensure there is an appropriate balance between consumer freedoms and choice and prevention of harm to vulnerable groups and wider communities.
- Ensure customers are protected whenever and wherever they gamble and that there is an equitable approach to the regulation of the online and land-based sectors.

The review will look at:

- The positive and negative impacts of advertising and marketing of gambling products and brands.
- The effectiveness of the regulatory system including the UKGC’s powers and resources to regulate.
- The availability and suitability of redress for customers.
- Young people’s access to Category D slots including the effectiveness of age controls.
- The age limit for society lotteries.
- The outcome of changes to the land-based sector introduced via the 2005 Act in

particular casinos.

- The protection of online gamblers and the rules in place to minimise the risks and technology in place to support harm prevention.

There will be particular attention paid to young people and children and others who may be vulnerable.

There are specific concerns that the current system of tailored online protection is not sufficient enough at preventing gambling harm. Concerns have also been raised over the nature of online gambling products themselves.

Currently, players can access a wide variety of products remotely from National Lottery tickets to sports betting, bingo, casino games and slots. Games such as online slots, casino or bingo are associated with a higher rate of problem gambling compared to online betting. Although protections are in place, there is a call as to



## GGY REMOTE GAMBLING CASINO, BETTING, BINGO

SECTOR	4/2017-3/2018	4/2018-3/2019	4/2019-3/2020	4/2020-3/2021
<b>Casino</b>	<b>£2.93bn</b>	<b>£3.07bn</b>	<b>£3.17bn</b>	<b>£4.01bn</b>
Blackjack	£203.4m	£209.4m	£178.9m	£196.4m
Other	£214.1m	£232.1m	£275m	£237.3m
Poker	£95.7m	£95.7m	£98.6m	£141.7m
Roulette	£417.9m	£421.8m	£410.7m	£528.5m
Slots	£1.99bn	£2.11bn	£2.21bn	£2.9bn
<b>Betting</b>	<b>£2.25bn</b>	<b>£2.02bn</b>	<b>£2.32bn</b>	<b>£2.64bn</b>
Betting	£2.05bn	£1.81bn	£2.13bn	£2.48bn
Betting Exchange	£168.8m	£165.3m	£160.6m	£135.6m
Pool Betting	£28.5m	£33.4m	£28.3m	£27.2m
<b>Bingo</b>	<b>£163.9m</b>	<b>£175.9m</b>	<b>£175.8m</b>	<b>£189m</b>
<b>TOTAL</b>	<b>£5.34bn</b>	<b>£5.26bn</b>	<b>£5.68bn</b>	<b>£6.9bn</b>

whether changes are needed at the product or account level to further improve player safeguards.

The Select Committee has suggested establishing a system of testing all new games against a series of harm indicators and establishing a category system for online gambling products and to use this system to set stake limits for online gambling products.

There is also a call to equalise the speed of play and spin so games played online cannot be played quicker than those in a casino, betting shop or bingo hall.

The suggested 'affordability' checks which are also under consideration as part of the review have raised some eyebrows and questions, particularly from the Betting and Gaming Council (BGC).

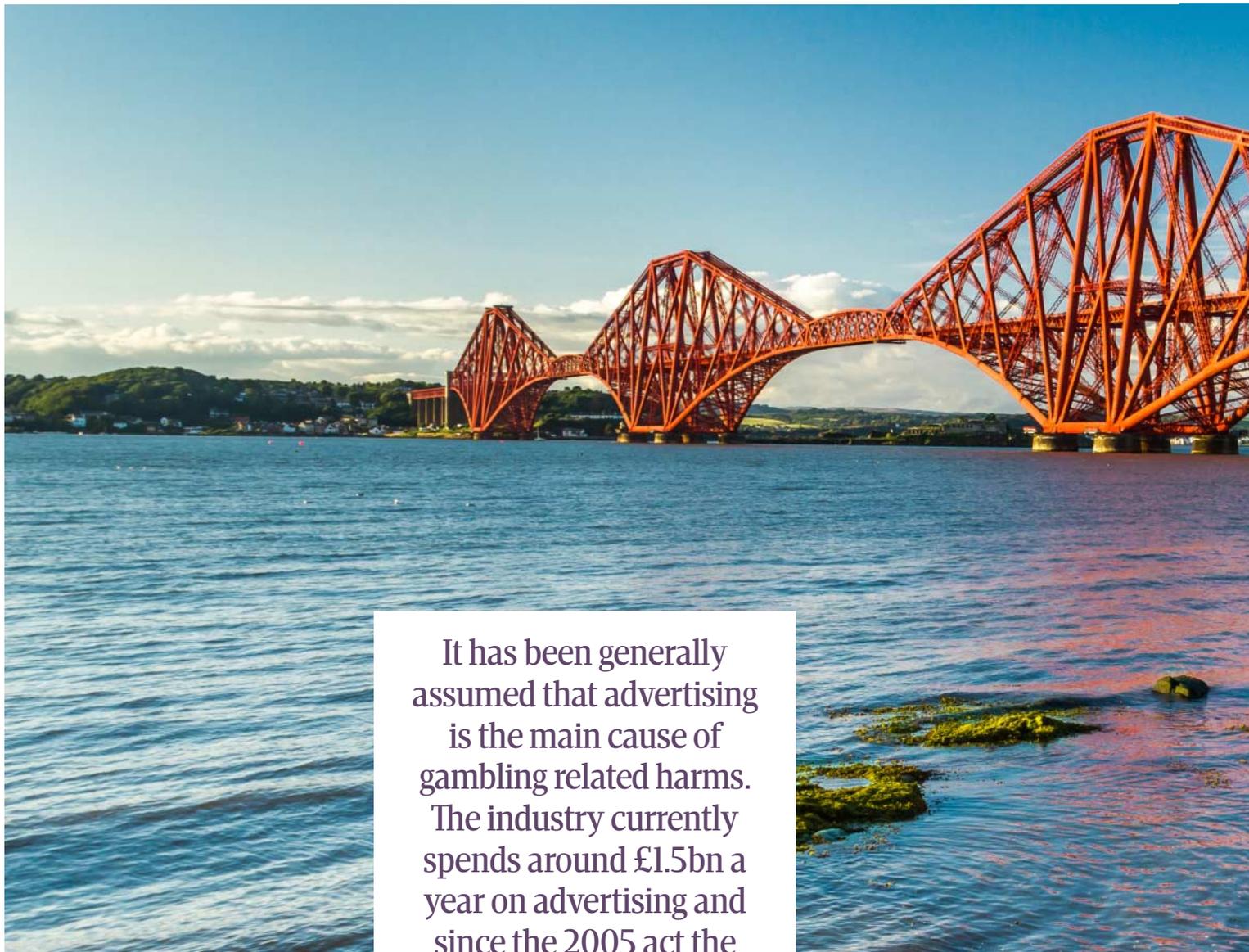
A recent YouGov survey revealed that only 16 per cent of those who enjoy a bet would submit themselves for 'affordability checks' whilst 58 per cent said they would not be willing to allow regulated betting and gaming firms to carry out the arbitrary blanket checks suggested by anti-gambling campaigners.

The BGC's Chief Executive, Michael Dugher, said:

"The same poll also found that 59 per cent of punters believe the government-imposed checks on whether customers can afford to place a bet would lead to a large or substantial risk of customers using unlicensed sites in the unsafe black market instead."

Dugher has urged the government to ensure the right balance between protecting the vulnerable while not driving the overwhelming majority who bet safely and responsibly towards the black market online.

He added: "We believe that technology should be used to identify those showing signs of



It has been generally assumed that advertising is the main cause of gambling related harms. The industry currently spends around £1.5bn a year on advertising and since the 2005 act the amount spent has increased dramatically, up 56 per cent between 2014 and 2017.

problem gambling so that swift interventions can take place.

"According to the Gambling Commission the rate of problem gambling fell from 0.6 per cent to 0.3 per cent in the 12 months to September last year. But one problem gambler is one too many."

Meanwhile, it has been generally assumed that advertising is the main cause of gambling related harms. The industry currently spends around £1.5bn a year on advertising and since the 2005 act the amount spent has increased dramatically, up 56 per cent between 2014 and 2017. A report stated around 80 per cent of all gambling marketing activity is now on the internet with companies spending five times more online than on television.

In early January, a discussion about the review was held in the House of Commons where Mr Philip reported that the DCMS was currently working its way through some 16,000 submissions received.

## THE GAMBLING COMMISSION

At the end of last year, the Gambling Commission launched a consultation to propose changes to its Licensing, Compliance and Enforcement Policy. The policy builds on the Commission's statement of principles for licensing and regulation and looks at every aspect of the licensing procedure of a licensee. The policy was last amended in 2017.

The proposed changes include a look at how compliance assessments are conducted, introduction of special measures, changes to the licence review process and the way financial penalties are calculated.

The consultation opened on November 17 2021 and closed on February 9 (see Insight column by Mishcon for a detailed overview).

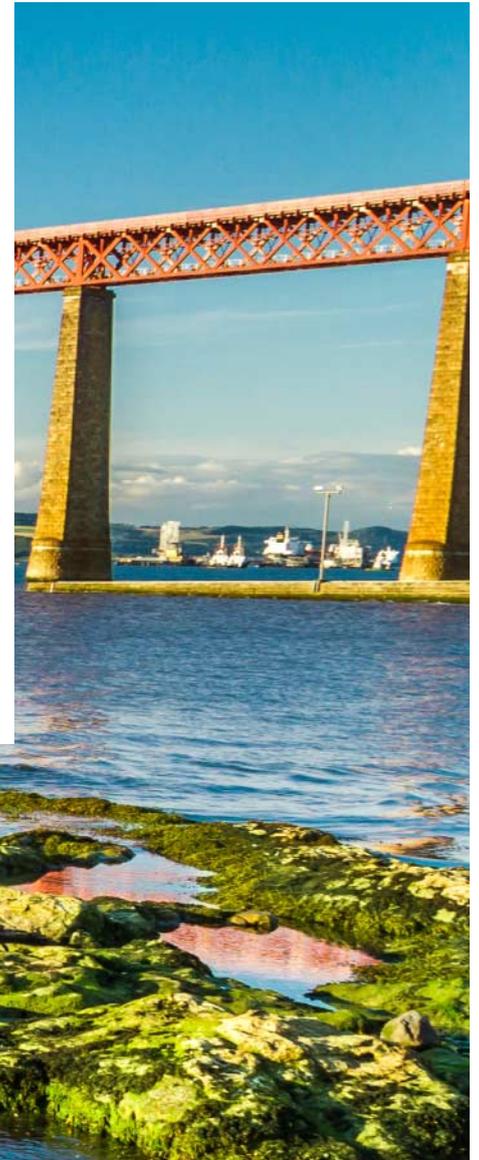
Some of the proposals have been suggested following the collapse of the Football Index (BetIndex) last year and the role the UKGC played in failing to monitor the product correctly and lack of action despite a number of warnings. The UKGC increased its fees for remote licensing applications and annual licence fees in October last year in order to "recover its costs and respond to new challenges." The fees for remote operating licences saw a 55 per cent increase.

The Commission has recently been on the receiving end of various critical reports whilst there are some recommendations calling for a new regulator.

Previous UKGC Chief Executive Neil McArthur left his role in March last year whilst interim CEO Andrew Rhodes was appointed in June and is expected to remain in position until the end of



In September, a Parliamentary All-Party Betting and Gaming Group (APBGG) launched an investigation into the 'competence and effectiveness' of the Gambling Commission. Due to the volume of submissions the deadline for submissions was extended to December last year and results were published in January.



this year. New Chair, Marcus Boyle, was appointed in September last year for a term of five years. In September last year, a Parliamentary All-Party Betting and Gaming Group (APBGG) launched an investigation into the 'competence and effectiveness' of the Gambling Commission. Due to the volume of submissions the deadline for submissions was extended to December last year and results were published in January.

The APBGG feels with the current review of the Gambling Act being undertaken, plus with a new Gambling Commission CEO appointment due later this year, the time is right for a review of the effectiveness of the regulator.

APBGG's Scott Benton MP said at the time: "We are very conscious that for many operators and their advisers, they have no real avenue to express their concerns, as the only way to complain about the Gambling Commission is to submit a complaint to the Gambling Commission. We are also conscious that many operators are actually scared of complaining

about their regulator as they fear retribution either directly or indirectly.

"The group therefore wishes to provide a platform for the industry and its advisers to provide examples and do so in an anonymous manner."

The Competence and Effectiveness of the Gambling Commission report suggests six recommendations to the DCMS which include:

1. As part of the review of the Gambling Act 2005 the DCMS should consider what the role of the UKGC is in the future and ask if the Commission's job is to actively seek a reduction in the number of problem gamblers.
2. The Better Regulation Task Force should undertake an audit of the Commission on the basis of a Hampton Implementation Review from 2008.
3. A QC should be commissioned to undertake an independent investigation of the

enforcement process of the Commission.

4. DCMS should temporarily take over the complaints process from the Commission.
5. The Gambling Law Review should consider amending the Gambling Act 2005 to differentiate between high and low risk gambling operators.
6. DCMS should put the Commission 'under special measures' to see if it can change its culture and strategic direction.

The APBGG also produced a report called Online Gambling Harm Inquiry in June 2020 in the wake of the government's announcement of the Gambling Act review. This was one of five reports during that year on gambling in the UK looking at problem gambling and gambling harm. This report stated that gambling in the UK over the last decade has seen a growth of 57 per cent whilst GGY from online gambling operations increased from £1bn to £5.3bn between 2009 and 2019.



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# Reports

UK - ONLINE UPDATE

It called for several changes to the gambling sector including an overhaul of the UK gambling regulation, a ban on all gambling advertising, a ban on all VIP schemes, a review of stakes (including a £2 maximum stake limit for online slots), deposit and prize limits online, and affordability limits set and imposed by the commission.

## GROWTH OF GAMBLING

Over the last decade the growth of online betting and gambling in the UK has been steadily increasing. Like a playground seesaw, as the lure of land-based casinos has declined in popularity, the GGY of the remote sector has been increasing.

Between April 2018 and March 2020, the online casino sector grew by around four per cent and remote betting grew by around 15 per cent. Between March 2020 and March 2021, the online betting sector grew by 13.6 per cent whilst the online casino sector increased by 26

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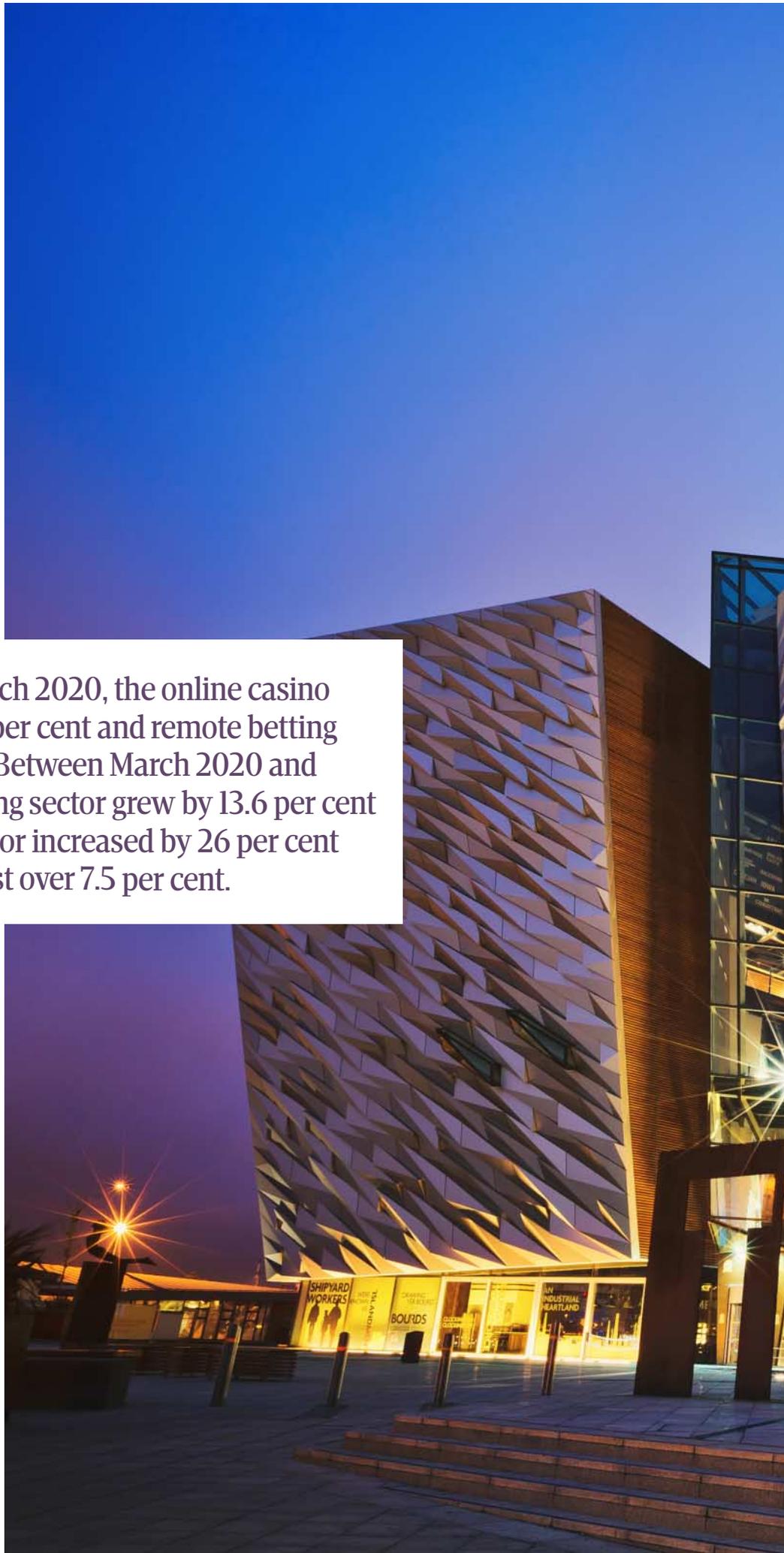
The UK gambling industry is on average worth around £14bn a year (in terms of Gross Gambling Yield) with almost 40 per cent related to remote gambling.

In 2020, the GGY dropped to around €6bn in total which was made up almost entirely from the remote gambling sector due to Covid restrictions replaced on land-based gambling venues. The online sector, however, saw an increase during this period and the turnover for the online gambling sector topped more than £141bn last year (April 2020 to March 2021) with a GGY of €6.9bn divided between online casinos with £4bn; online betting with £2.6bn and remote bingo with £189.1m.

Online casinos represent 22.5 per cent of the total gambling industry alongside online betting (16.5 per cent).

There are some 25 million adult gamblers which fuel the UK gambling industry of which 10.5 million bet online. It is said that more than 45 per cent of Brits gamble each month.

The UK market is home to almost 2,440 licensed gambling operators of which 600 offer online services. Meanwhile, the land-based sector has





Online sports betting is the second largest category in the remote sector and has been growing significantly at rate of 15 per cent over the last two years. Football dominates almost half of all revenues in the betting sector online followed by horse racing. A newcomer to the market is virtual sports and events which has been gaining popularity with a big increase in revenues.

just over 9,000 premises last year made up of 1,390 Adult Gaming Centres (AGC), 6,735 betting locations, 179 FECs, 601 bingo venues and 131 casinos.

Of course, the Covid pandemic has had a huge effect on gambling data worldwide in terms of a drop in revenue for land-based gambling and a rise generally in online. This in turn also created a new dynamic in the online gambling debate in the UK.

A stay-at-home Covid rule coupled with the closure of all non-essential shops and businesses began in the UK on March 23 2020, which included pubs, betting shops, bingo halls, arcades, casinos and live racing venues. Betting shops were shut until June 2020 when dog and horse racing resumed and later football, bingo and arcades opened in early July whilst casinos remained closed until mid August.

A second lockdown followed in November 2020 for a month followed by a third in early January which saw the land-based gaming sector again closed down until early May.

It was reported that due to the cancellation of sporting events many gamblers transitioned to online casino and slot games and were gambling for longer periods of time.

## CURRENT LEGISLATION

The UK gambling legislation is governed by the Gambling Act 2005, which came fully into force in 2007, and was later amended via the Gambling (Licensing and Advertising) Act of 2014 to cover all online gambling providers. This introduced updates to the 2005 Act which basically required all offshore remote operators to hold a UK operating licence to provide or advertise gambling to customers in the country.

Previously operators in the EEA, Gibraltar and 'white listed' jurisdictions did not have to obtain a licence. These offshore operators were required to pay a gambling duty on UK revenue regardless of where the business is domiciled.

The 2005 Act also created the Gambling Commission, which is an executive non-departmental public body under the Department for Digital, Culture, Media and Sports. The commission regulates gambling across land-based venues such as arcades, betting, bingo and casinos plus gaming machine providers and software providers, lotteries and remote gambling.

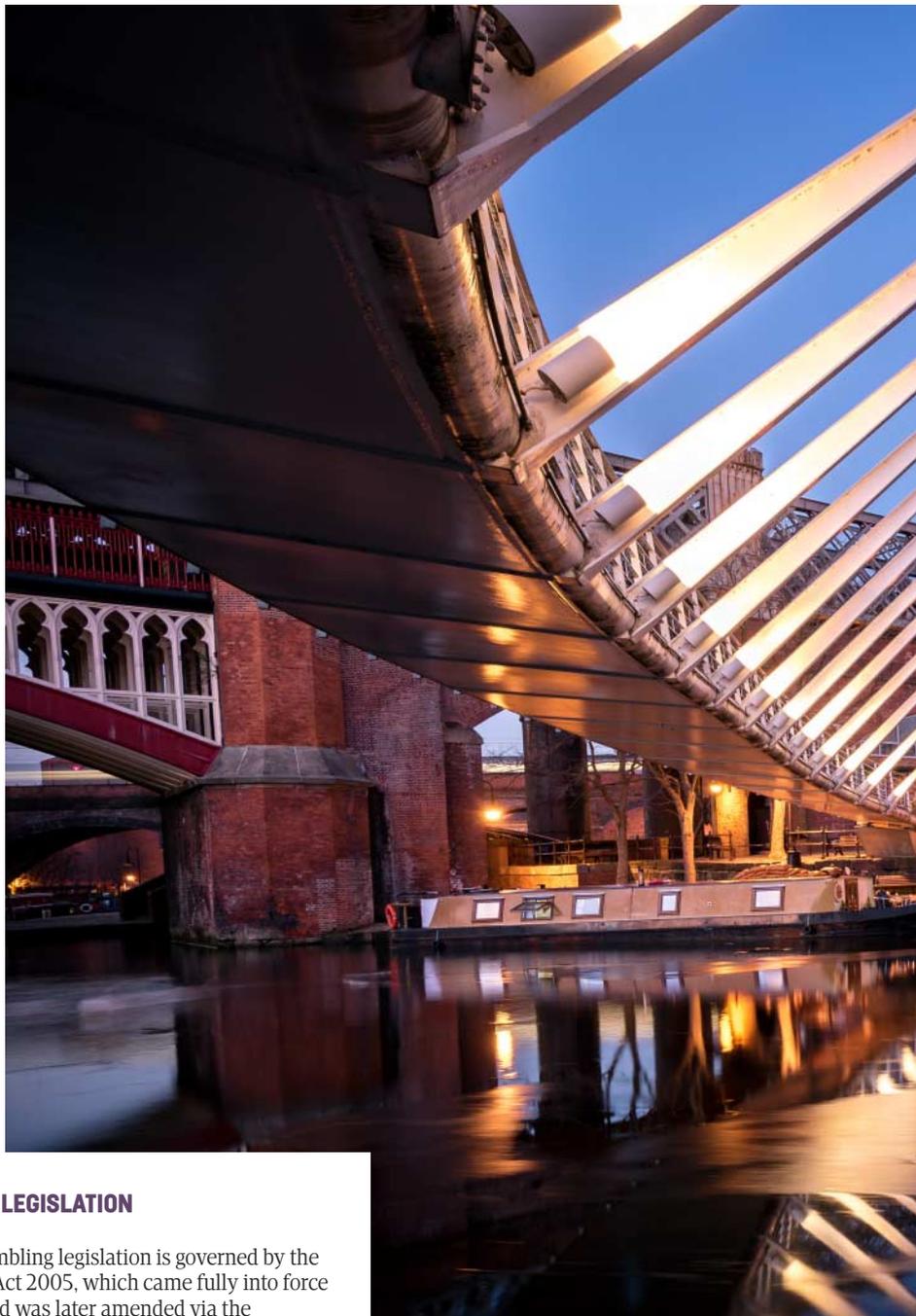
Gambling websites which trade or advertise to customers in Great Britain must have a Gambling Commission licence. There are various remote operating licences including Remote

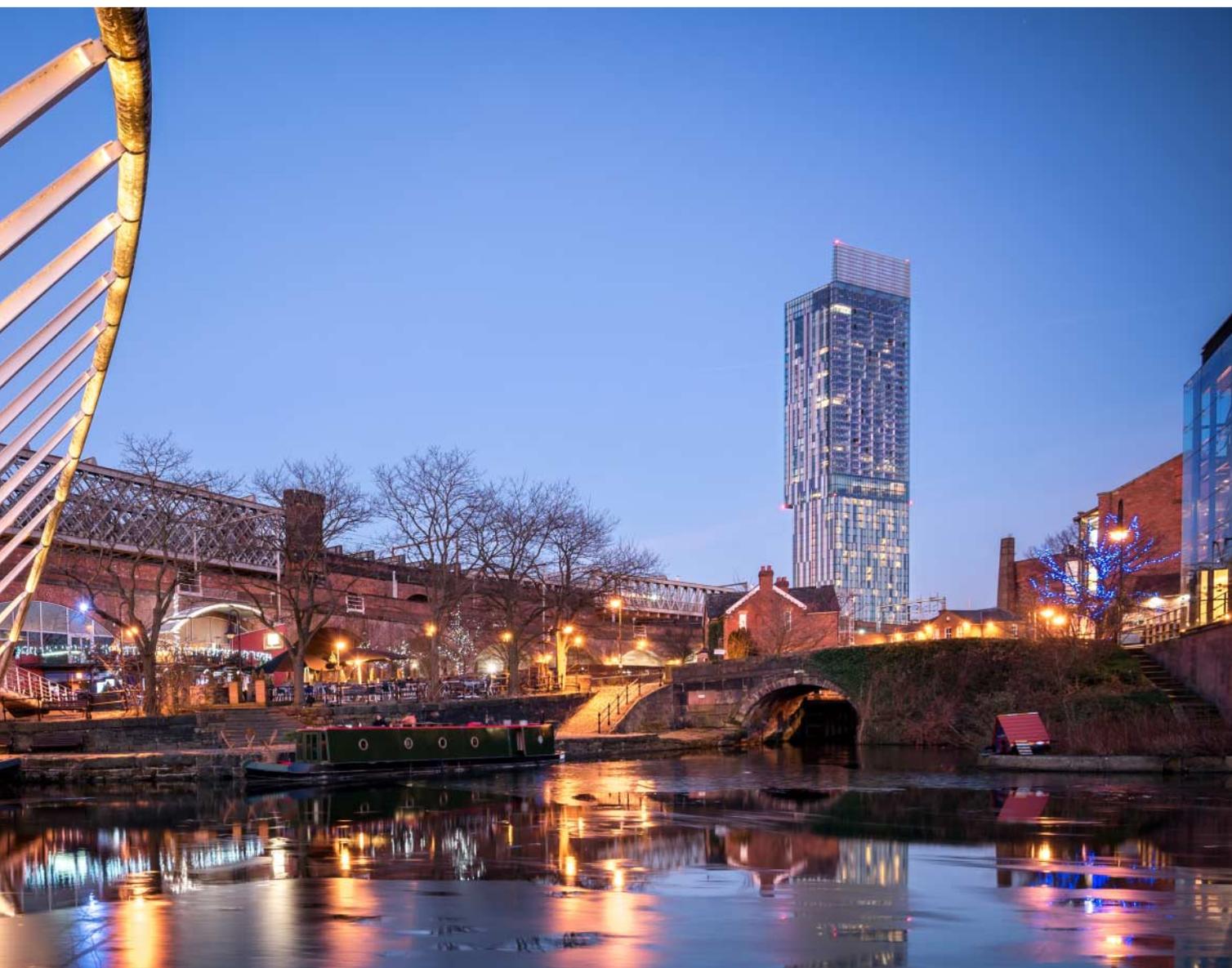
Casino licence; Remote General Betting Standard Virtual Events licence; Remote Bingo, Remote General Betting Standard Real Events licence and Remote Pool Betting.

Licences are bound by the Licence Conditions and Codes of Practice (LCCP), an extensive document which outlines all the requirements an operator must fulfil ranging from operating conditions and practice provisions.

Remote gambling includes all forms using remote communication whether it is internet, telephone or television for example. Licensing fees for remote gambling were increased in October last year by 55 per cent. Non-remote licensing fees are due to be increased in April this year. Online gambling pays a remote gaming duty of 21 per cent of the GGR.

Licensing fees vary according to type of licence and annual GGY. It can range from a remote licence casino, betting virtual events and bingo licence with a low GGY of less than €550,000 which would pay an application fee of €4,224





## GGY FOR ALL GAMBLING SECTORS 2017-2021

SECTOR	4/2017-3/2018	4/2018-3/2019	4/2019-3/2020	4/2020-3/2021
Casino	£81.2bn	£88.5bn	£91.9bn	£112.7bn
Blackjack	£8.7bn	£9.15bn	£8.13bn	£8.45bn
Other	£6.58bn	£7.15bn	£8.13bn	£7.09bn
Poker	-	-	-	-
Roulette	£16.7bn	£17.6bn	£17.5bn	£21.9bn
Slots	£49.2bn	£54.5bn	£58.1bn	£75.2bn
Betting	£27.1bn	£27.7bn	£26.5bn	£27.2bn
Betting	£27bn	£27.6bn	£26.4bn	£27bn
Betting Exchange	-	-	-	-
Pool Betting	£88m	£103.8m	£101.1m	£125.2m
Bingo	£1.3bn	£1.3bn	£1.23bn	£1.4bn
<b>TOTAL</b>	<b>£109.6bn</b>	<b>£117.6bn</b>	<b>£119.5bn</b>	<b>£141.3bn</b>

and annual fee of €4,199 compared to those with a GGY of more than €1bn which would pay an application fee of €91,686 and annual fee of €793,729 (plus €125,000 per additional €500m of GGY).

Meanwhile, strict AML requirements means currently it is virtually impossible for operators to accept crypto currencies as a method of

payment on licensed platforms.

An Ernst & Young report commissioned by the British Betting Council in 2021 says remote betting and gaming GGY has grown by eight per cent per year over the last three years to £5.3bn to year ending April 2019. Online casino had the biggest growth in terms of GGY from around £2.93bn in 2018 to just over £4bn last year.

Online sports betting is the second largest category in the remote sector and has been growing significantly at rate of 15 per cent over the last two years. Football dominates almost half of all revenues in the betting sector online followed by horse racing. A newcomer to the market is virtual sports and events which has been gaining popularity with a big increase in revenues.

**THE GAMBLING COMMISSION'S  
CONSULTATION ON CHANGES TO  
LICENSING, COMPLIANCE AND  
ENFORCEMENT POLICY**

In November 2021, the Gambling Commission (GC) launched a consultation on its Licensing, Compliance and Enforcement Policy (Policy). The consultation closed on February 9, 2022. The Policy is a critical document for applicants and licensees, and we consider several of the proposed changes to be controversial. We highlight some of the key proposals below:

- **'Dual regulation products'** – until legislative clarity about how such products should be regulated (which the GC considers is necessary), and to avoid potential risk to the licensing objectives, the GC proposes to enshrine in its Policy that licence applications for products that (a) the GC considers contain an element that should be regulated by the Financial Conduct Authority (FCA) and/or (b) in their name, branding or game rules contain language associated with financial products (such as stock, share, index or investment) are likely to be refused. In our view, this is misguided. The GC appears to be seeking to define a category of products that may not be 'specified investments' for the purposes of the Financial Services and Markets Act (and therefore subject to regulation by the FCA), but which the GC thinks should be. Consumer notices can adequately address the risks to which the GC refers, and in those circumstances, our view is that the GC is under a duty to regulate those products that constitute gambling.

- **Incomplete licence applications** – the consultation proposes clarification that incomplete licence applications may be rejected (and the application fee forfeited), with the intention that this will enhance the quality of applications and speed up the overall process. In our view, however, enhancements to the online application portal and associated guidance would be a more effective, and less potentially unfair, way to address the issue.

- **Financing arrangements** – the GC proposes not to grant a licence until it is "fully satisfied" that the applicant business will not be financed by the proceeds of crime, and that its profits will not be used to finance crime. Whilst this seeks to promote the first licensing objective, the proposed standard of proof (i.e. "fully satisfied") is completely subjective, uncertain, and potentially unattainable.

The proposal also raises the troubling prospect of applicants having to prove a negative, and having to evidence future action/intention. In our experience, the GC does not adopt (as it should) a risk-based approach to the investigation of source of funds, and for this reason we are particularly concerned that this proposal will lead to significant delays in new applications, and considerable uncertainty.

- **Special measures** – the proposals anticipate the formalisation of the "special measures" process, which had been "piloted" over the



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Mishcon de Reya is a law firm with offices in London and Singapore, which employs more than 1,000 people of which 600 are lawyers. The firm covers all sectors within the finance and business world including gambling and offers its services to settle disputes, protect assets or grow businesses. Mishcon's Betting and Gaming team are a highly regarded sector-focused team, with extensive experience advising the industry. This article is produced by Nick Nocton and Niki Stephens about the Gambling Commission's consultation on changes to its Licensing, Compliance and Enforcement Policy.

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"The Gambling Commission proposes not to grant a licence until it is "fully satisfied" that the applicant business will not be financed by the proceeds of crime, and that its profits will not be used to finance crime. Whilst this seeks to promote the first licensing objective, the proposed standard of proof (i.e. "fully satisfied") is completely subjective, uncertain, and potentially unattainable."





previous 12 to 18 months. In our experience of the “special measures” process, the GC expects divestment (of financial gain) arising out of the alleged “failings” of the licensee, but (by virtue of the short timetable) offers limited scope for representations. The proposed amendments to the Policy indicate that divestment “may” be required, but in our view, divestment should never be a requirement of a process that does not provide adequate time for the allegations to be fully considered and responded to.

Moreover, given that the rationale for “special measures” is to encourage rapid operational change to achieve compliance, without recourse to a protracted review process, it is remarkable that the GC should also suggest that, even if the licensee implements the agreed action plan in full, this would not prevent them from reviewing the licence in any event (with the additional jeopardy and publicity that entails). If a licensee commits to make changes, under threat of a licence review, and implements those changes, they have a legitimate expectation that this will avoid a licence review, absent other issues.

Whilst we agree that positive regulatory outcomes may be achieved through a procedure that allows a willing licensee to avoid potentially protracted and costly enforcement proceedings by working with the GC to address issues/concerns identified during a compliance assessment, for the reasons outlined above, we find the proposals regarding “special measures” particularly troubling.

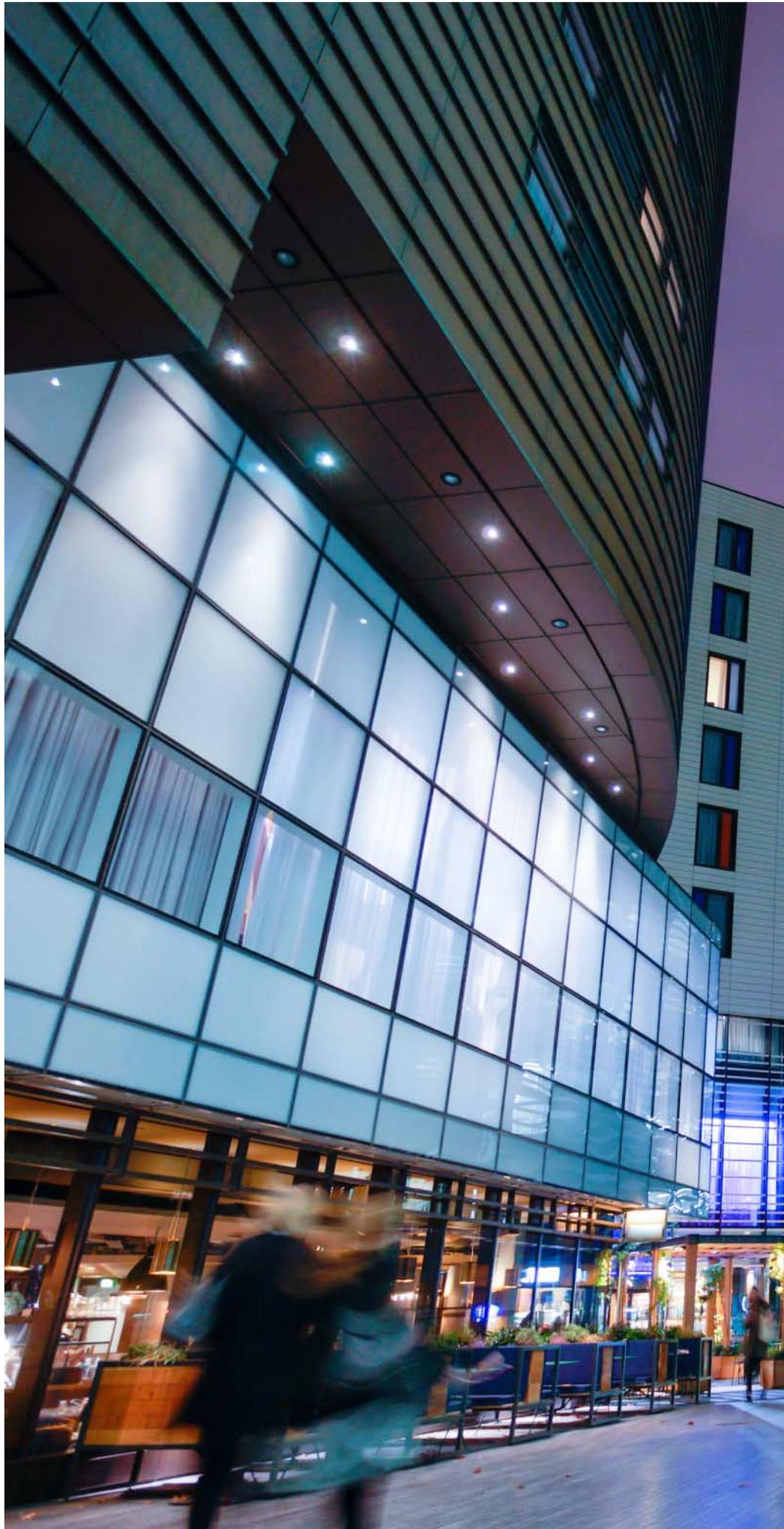
- **Flexibility of approach** - the GC also proposes to amend the Policy to clarify that it may take a “flexible approach” to the review procedure, in particular to permit it to investigate further, and to issue further preliminary findings, after a licensee has made representations in response to a previous set of preliminary findings. We understand the issue the GC seeks to address, but the suggestion that its Policy should expressly contemplate it taking a “flexible” and therefore unpredictable, procedural approach is unsatisfactory.

- **Regulatory settlement** - the GC also proposes to amend the Policy to state that it will not normally accept offers of regulatory settlement after the licensee has made representations in response to the GC’s preliminary findings. Given that demonstrating insight into the “apparent failings” is a prerequisite of a regulatory settlement, the suggestion that a regulatory settlement would be unavailable after the point at which the licensee is first able to respond to the GC’s preliminary findings seems to us unreasonable and procedurally flawed.

As readers will see, various aspects of the consultation give rise to real questions over procedural fairness. We will be publishing our response to the consultation on our Mishcon Accumulator blog at:

[www.mishcon.com/accumulator](http://www.mishcon.com/accumulator).

If you have any questions regarding this consultation, or any aspect of licensing, compliance or regulatory enforcement, please contact the authors.





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