



National Audit Office

Report

by the Comptroller
and Auditor General

The Gambling Commission

Gambling regulation: problem gambling and protecting vulnerable people

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National Audit Office

The Gambling Commission

Gambling regulation: problem gambling and protecting vulnerable people

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

20 February 2020

This report examines the extent to which gambling regulation effectively and proportionately protects people from gambling-related harms and addresses emerging risks, based on established principles of good regulation. It focuses on the role and work of the Gambling Commission, but also considers the wider regulatory framework it operates within.

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Key facts

£11.3bn

total gross gambling yield (bets placed less winnings paid out) earned by gambling operators in Great Britain in 2018-19, excluding the National Lottery

57%

real-terms increase in gross gambling yield between 2008-09 and 2018-19 (excluding the National Lottery), mostly due to a large increase in licensed online gambling

395,000

Gambling Commission's estimate of the number of problem gamblers in Great Britain, of which 55,000 are aged 11 to 16

1.8 million

estimated number of at-risk gamblers, who therefore may be experiencing some negative consequences

**£260 million –
£1.16 billion**

indicative range of extra costs to various public services estimated to be associated with problem gamblers

44%

proportion of online gamblers that used mobile phones to gamble in 2018, up from 23% in 2015

56%

estimated increase in gambling operators' spend on advertising and marketing from 2014 to 2017, mostly from increases in online and social media advertising

£19 million

total funding for the Gambling Commission in 2018-19 (excluding its work on the National Lottery), almost all from licence fees paid by gambling operators

£19.6 million

total value of financial penalties sanctioned by the Gambling Commission against gambling operators in 2018-19, up from £1.4 million in 2014-15

Summary

1 Around half of adults in Britain participate in some form of gambling. People gamble when they pay to engage in a game of chance and win a prize of monetary value, including in arcade games, online bingo, casinos or betting on sports. Gambling is a major industry in Great Britain, which generated £11.3 billion of yield (bets placed less winnings paid out) for gambling operators, excluding the National Lottery, in 2018-19. The industry also raises around £3 billion a year in gambling duty.

2 Gambling can have significant adverse effects on people, particularly when it becomes addictive. These effects include mental health problems (which can also be a cause of gambling problems), relationship difficulties, large-scale financial loss and, in some cases, crime or suicide. The level and range of harms experienced differ from one person to the next and can be made worse by poor or negligent conduct from gambling operators, for example by encouraging people to play more. 'Problem gambling' is gambling considered disruptive and harmful to a person's health and well-being. Harm from gambling is not restricted to problem gamblers, and can also affect other gamblers, friends, family, co-workers and anyone else impacted by a person's gambling.

3 The Gambling Commission (the Commission) regulates commercial gambling in Great Britain. All gambling operators must have a licence, and the Commission has powers to set licence conditions and codes of practice, and to monitor and enforce compliance with these. It seeks to ensure gambling is fair and safe, and is guided by a statutory objective for gambling licensing to protect children and other vulnerable persons from being harmed or exploited by gambling. It also has statutory licensing objectives to prevent gambling from being a source of crime and to ensure gambling is conducted fairly and openly, a duty to advise government on gambling regulation, and separate objectives relating to the operation of the National Lottery. The Commission is a non-departmental public body sponsored by the Department for Digital, Culture, Media & Sport (DCMS) and is funded by licence fees from gambling operators.

4 To meet its objectives, the Commission works with other public, private and charitable bodies:

- DCMS is the government department with overall responsibility for gambling policy and the regulatory framework. It introduces legislative changes where necessary, sets licence fees and has an objective to ensure commercial gambling is socially responsible.
- While the Commission licenses operators at the national level, local authorities license and inspect local gambling premises such as betting shops and arcades.
- Specialist treatment to help problem gamblers, as well as most research and education, is primarily done by independent charities funded through voluntary arrangements by gambling operators.
- The Commission also works with other regulatory and enforcement organisations such as the Advertising Standards Authority, which enforces rules relating to gambling advertising and promotion.

5 Like many sectors, the gambling industry and the way people gamble are influenced by technological and social developments. The industry is larger and more accessible than it has ever been, with licensed gambling having grown by 57% (£4.1 billion) in real terms over the past decade. This growth is mostly due to a significant increase in licensed online and mobile gambling, which did not need to be licensed in Britain before November 2014 if it was based overseas. The Commission also monitors new risks emerging from areas that are not legally defined as gambling but share similar features, such as 'loot boxes' in video games.

Scope of this report

6 This report examines the extent to which gambling regulation effectively and proportionately protects people from gambling-related harms and addresses emerging risks, based on established principles of good regulation. It focuses on the role and work of the Commission, but also considers the wider regulatory framework it operates within. It covers whether the Commission:

- has a good understanding of the problems it is trying to address, and has clearly set out what it is trying to achieve, so that it can direct resources effectively (Part Two);
- is both intervening directly and working effectively with others to make gambling safer, based on a good understanding of what works (Part Three); and
- has the powers, capacity and expertise it needs to address emerging risks and respond to social and technological changes (Part Four).

7 While we considered the Commission's overall approach and various objectives as part of this review, our evaluation focuses on its licensing objective to protect children and other vulnerable persons from being harmed or exploited by gambling.

8 Gambling harm is a subject of current public and Parliamentary interest and debate. We have not examined the merits of public policy objectives in this area, only the extent to which gambling regulation supports these objectives. We have also not audited non-regulatory interventions by other organisations, such as treatment services for gambling addiction, although we have considered these factors in context.

Key findings

Identifying and responding to gambling-related harm

9 **There are an estimated 395,000 problem gamblers in Great Britain, with 1.8 million more gamblers at risk who may also be experiencing harm.** Problem gamblers typically experience more extreme consequences from gambling, including a possible loss of control of their gambling activity. The Commission estimates, based on bi-annual health surveys, that the number of adult problem gamblers is 340,000 (which has not changed significantly since 2012), with research suggesting that around six additional people are directly affected by each problem gambler. There is considerable demographic variation: problem gamblers are more likely to be male, aged 25 to 34, and from some ethnic minorities. The Commission also estimates there are 55,000 problem gamblers aged 11 to 16, nearly twice its previous estimates, which is considered to be largely due to changes in how it measures problem gambling among young people. The NHS is opening its first gambling clinic for children and young people because of concern around the impact of online gaming and gambling on young people's mental health (paragraphs 2.3 to 2.6).

10 **Evidence on the causes and impacts of gambling problems is limited compared with other addictions, such as alcoholism, or consumer issues such as problem debt.** Understanding the causes and impacts of problem gambling on people, public services and society is crucial to designing an effective regulatory response. Many stakeholders, including Public Health England and the NHS, have started to approach gambling-related harms as a public health matter. However, government does not have the same level of evidence on gambling addiction compared with public health issues such as obesity and alcohol dependency. There is also a lack of longitudinal data to measure the impact of gambling problems. One independent estimate indicates extra costs to public services of between £260 million and £1.16 billion associated with problem gamblers, but these costs are narrowly defined and do not examine causal impacts. The Commission recognises the deficiencies, and in July 2018 set out a plan for improving how harms can be measured and better understood (paragraphs 2.7 to 2.10).

11 The Commission is clear in describing its overall aim to make gambling safer but has not sufficiently clarified how it is pursuing this aim. Regulators need clear, measurable objectives so their teams and the external stakeholders they work with have a common understanding of what they are aiming to achieve and can judge progress. The Commission has translated its statutory objectives and overall aim to make gambling safer into strategic priorities, business plan activities and high-level outcomes it wants to achieve. However, it has not yet developed these high-level outcomes into detailed, measurable success criteria against which to judge progress. For example, the Commission wants to see the number of people affected by problem gambling to reduce significantly but has not articulated what level of reduction, over what period of time, would indicate good progress. It has also not articulated in detail how it interprets which consumers may be vulnerable and when (paragraphs 2.11 to 2.13).

Acting to keep consumers safe

12 There are gaps in the data and intelligence the Commission uses to identify the problems consumers are experiencing with gambling services or operators. The Commission monitors intelligence from a range of sources to identify operators or games that gamblers are experiencing issues with. It uses this and other information to help it identify and prioritise which emerging issues to address. It has increased the number of intelligence reports it gathers and receives by 19% since 2014. However, there are gaps in the Commission's intelligence base. For example, it relies on local licensing authority inspections for intelligence on gambling premises, but 119 authorities did not conduct any inspections in 2018-19 and around 60 did not conduct any for the past three years. The Commission also does not make full use of its own data to identify consumer problems, for example from the 33,000 contacts a year it receives from consumers (paragraphs 3.3 to 3.6).

13 The Commission has increased enforcement action against operators that break rules. In line with good regulatory practice, the Commission uses penalties or other sanctions to deter licensed operators from deliberately or inadvertently failing to meet licence conditions or codes of practice. Between April 2014 and March 2019, the Commission revoked the licence of eight gambling businesses and eight senior individuals working in the industry. Over the same period, it enforced 29 financial penalties. These penalties have increased from three penalties with a combined value of £1.4 million in 2014-15 to nine penalties totalling £19.6 million in 2018-19. The Commission does not know the extent to which these increases have strengthened the deterrent effect of enforcement action (paragraphs 3.10 and 3.11).

14 The Commission is not doing as much as it could to incentivise operators to raise standards and make gambling safer. Effective regulation not only penalises rule-breaking, but also raises standards across the industry both by strengthening the rules where appropriate and by incentivising and supporting companies to go beyond minimum standards (paragraphs 3.8, 3.9 and 3.12 to 3.14).

- The Commission acknowledges that some of its licence conditions and codes of practice have not been effective at making gambling safer and has made incremental improvements since 2015.
- The Commission also seeks to prompt industry to raise standards but has not explored common approaches that regulators use in other sectors, such as financial or reputational incentives. Industry representatives we interviewed also indicated that a more collaborative relationship, and more clarity over what the Commission expects of them, would be more effective in raising standards.

15 The Commission is increasingly proactive in working with other organisations to protect consumers, as its direct role and powers are limited to regulating operators. Effective consumer protection usually involves a number of other functions alongside regulation, such as consumer advocacy and complaints services. The Commission has therefore worked with other organisations that also seek to make gambling safer, and developed a new national strategy in the absence of anything similar already existing (paragraphs 3.15 to 3.17).

- In April 2019, the Commission launched its three-year national strategy to reduce gambling harms, which articulates how activities from various organisations fit into an overall framework for making gambling safer. Many stakeholders we interviewed welcomed the Commission's efforts to bring key organisations together. We also found specific examples of joint working, such as work with the Advertising Standards Authority to clarify requirements relating to gambling advertising and sponsorship.
- Within the arrangements as currently designed, consumers cannot typically seek redress where operators fail to meet social responsibility codes of practice (for example, requiring them to help consumers stop gambling for a defined period of time when the consumer requests this), as these are not normally reflected in operators' terms and conditions. The Commission has therefore found it difficult to consistently direct consumers seeking support or redress to relevant organisations. For example, this includes directing consumers with complaints towards the appropriate industry-funded dispute resolution service, of which there are eight. There is also no statutory consumer representative organisation, as exists in some sectors.

16 The Commission does not have a full understanding of the impact of its work or whether it is achieving its overall objectives to protect consumers.

Regulators need a good understanding of their performance so they can prioritise what works, take corrective action and be held accountable. The Commission generally follows good practice in reporting performance to its board. It reports quarterly a set of indicators linked clearly to its strategic priorities and includes some measures of consumer outcomes, such as estimated numbers of problem gamblers. However, its measures are not comprehensive, are not set against clear benchmarks to indicate overall performance and do not, for example, assess how effectively the Commission's work reaches consumers most at risk (paragraphs 3.18 to 3.20).

Responding to social and technological change

17 The way that gambling regulation is funded does not allow the Commission to change licence fees and makes it more difficult to invest in new skills to quickly address changing risks.

The Commission received £19 million of funding in 2018-19, almost entirely from licence fees. DCMS sets fees through secondary legislation, which normally happens approximately every four years. DCMS and the Commission intend for fees to reflect the cost of licensing and regulating the industry, based on the level of risk of each licence type and size of operator. Since the last fees review in 2016, the Commission has seen increased complexity in its work, particularly in online and mobile gambling which account for 83% of the total number of regulatory penalties in the past five years. The Commission has identified specific skills gaps, including in crypto-currency and addictive technologies, but cannot change licence fees to raise additional resource and also faces more general constraints in reprioritising within existing budgets (for example, due to the specific technical skills required). However, it has not yet produced a robust assessment of future needs or fully explored what more it could do within its existing resources (paragraphs 4.10 to 4.14).

18 The Commission's ability to respond to changes in gambling is constrained by its understanding of how they affect consumers.

The Commission needs this understanding to determine an appropriate regulatory response. The Commission monitors various industry and consumer developments. This has highlighted, for example, an increase from 23% to 44% of online gamblers who gamble through mobile phones between 2015 and 2018, increasing popularity of gambling related to video games by younger people, and a 56% estimated increase in advertising spend from 2014 to 2017 (mostly from online advertising and social media). The Commission has not yet assessed the impact or potential harms of these developments for consumers and has recognised it needs to increase its expertise in digital technologies to be able to respond more quickly (paragraphs 4.3 to 4.5).

19 The Commission has taken a cautious approach to changing regulations, and some changes have been made via legislation, which has taken a number of years. While the Commission's powers give it considerable scope to change requirements on operators in order to meet the licensing objectives, in practice it does not always make changes itself. This is either because it lacks powers in specific areas, or due to a lack of evidence over what the best regulatory response would be. In some cases, legislative changes have been introduced by DCMS and enacted by Parliament. For example, legislation in 2019 reduced the maximum stakes on fixed-odds betting terminals (FOBTs) from £100 to £2 per play. The Commission does not have powers to change stake limits on gambling machines, but it can take other actions to place new requirements on operators, and it also provides advice to government. It advised government in 2013 that the industry urgently needed to improve both transparency around FOBTs and measures to minimise harm to consumers. The Commission and DCMS subsequently introduced new requirements on operators, but the Commission considered it did not have evidence to support reducing stakes limits until 2018 (paragraphs 4.6 to 4.9).

Conclusion

20 Gambling-related harm is a serious problem for the individual affected and people close to them. It imposes potentially significant costs on public services and society more widely, although government has a limited understanding of these impacts. The Gambling Commission is a small regulator in a challenging and dynamic industry. To reduce these harms, it has increased its regulatory action (such as penalties on operators that break rules) and its collaboration with others in the field. But there is more it needs to do to identify where problems are occurring and ensure gambling operators raise their standards.

21 The way people gamble is changing, with new risks emerging in online and mobile gambling and other technological developments. The Commission's ability to ensure consumers are protected from these new risks is constrained by factors outside its control, including inflexible funding and a lack of evidence on how developments in the industry affect consumers. The Commission is unlikely to be fully effective in addressing risks and harms to consumers within the current arrangements.

Recommendations

22 The Commission should:

- a build on its high-level definition of vulnerability to articulate clearly how it interprets which consumers may be vulnerable under what circumstances, and how its work is intended to address this.** To achieve this, it could work with and learn from the experiences of other regulators that have articulated their interpretations of vulnerable consumers including, for example, how they consider concepts such as temporary vulnerability (such as due to job loss or bereavement);

- b do more to translate its high-level intended consumer outcomes into what they mean in practical terms, to help determine progress in achieving these objectives.** The Commission should also continue to develop how it measures its performance and impact, including in protecting demographic groups that are particularly at risk of harm, and assessing the timeliness of its interventions and the effectiveness of industry-led initiatives to protect consumers;
 - c enhance its analytical capability to better identify consumer harm and make greater use of the intelligence it has available.** For example, it could develop a more systematic and detailed approach to recording and analysing information from consumers who make contact. The Commission should also consider how it can work with other organisations such as local licensing authorities and dispute resolution providers to plug gaps in its current intelligence base; and
 - d develop a more strategic approach to influencing gambling operators to raise standards in protecting consumers.** This could include, for example, considering ways to place financial or reputational incentives on operators to go further in making gambling safer for consumers, including by learning from other regulators.
- 23** The Commission and DCMS should:
- e develop a deeper understanding of the causes and impacts of gambling-related harm.** This should include the Commission's own research programme as well its engagement with the wider research community. It could include, in particular, analysis of how social and technological developments affect people's gambling and the impact this is having in practice, particularly to at-risk groups;
 - f review whether the arrangements for consumers when things go wrong are working effectively.** This should include consideration of whether simplifying dispute resolution services would make it easier and more consistent for consumers to access them, and whether it would also provide benefits for the Commission by simplifying the insight and intelligence it gathers and receives on consumer problems; and
 - g review the suitability of the current licence fee model, and what it means for the regulatory approach, to address the challenges identified in this report and ensure that gambling regulation can adapt to changing risks to consumers.** This includes the ability to quickly respond to new areas of consumer harm and, where necessary, increasing capability and capacity to address this. It would also be an opportunity to consider ways licence fees could be used to create financial incentives on operators to raise standards.

Part One

The purpose and aim of gambling regulation

1.1 Around half of adults in Britain participate in some form of gambling. People gamble when they pay to engage in a game of chance and win a prize of monetary value. There are many ways for people to gamble, including arcade games, online bingo, casinos or betting on sports, and each activity has its own unique characteristics. The industry raises around £3 billion a year in gambling duty.¹

1.2 Gambling can have significant adverse effects on people, particularly when it becomes addictive. These effects include mental health problems (which can also be a cause of gambling problems), relationship difficulties, large-scale financial loss and, in some cases, crime or suicide (**Case study 1**). The level and range of harms experienced differ from one person to the next, and can be made worse by poor or negligent conduct from gambling operators, for example by encouraging people to play more.

Case study 1

Lee had never gambled until he was 39 years old, when he first went to a casino. He soon became addicted to gambling, which led to him spending all of his life savings and borrowing large amounts of money, which included unsecured personal loans, credit cards and payday loans. When he could no longer access any more money, he stole £19,000 from his employer. He could not see any way out of his dependency other than suicide. The only thing that stopped him from this course of action was a call from a family member.

Source: Young Gamers and Gamblers Education Trust

1.3 ‘Problem gambling’ is gambling considered disruptive and harmful to a person’s health and well-being. Those who are not classified as problem gamblers can also experience similar harms, normally to a lesser extent. Harm from gambling is not restricted to gamblers themselves – it can also affect friends, family, co-workers and anyone else impacted by a person’s gambling.

¹ Gambling duties are general taxation, not a ringfenced levy.

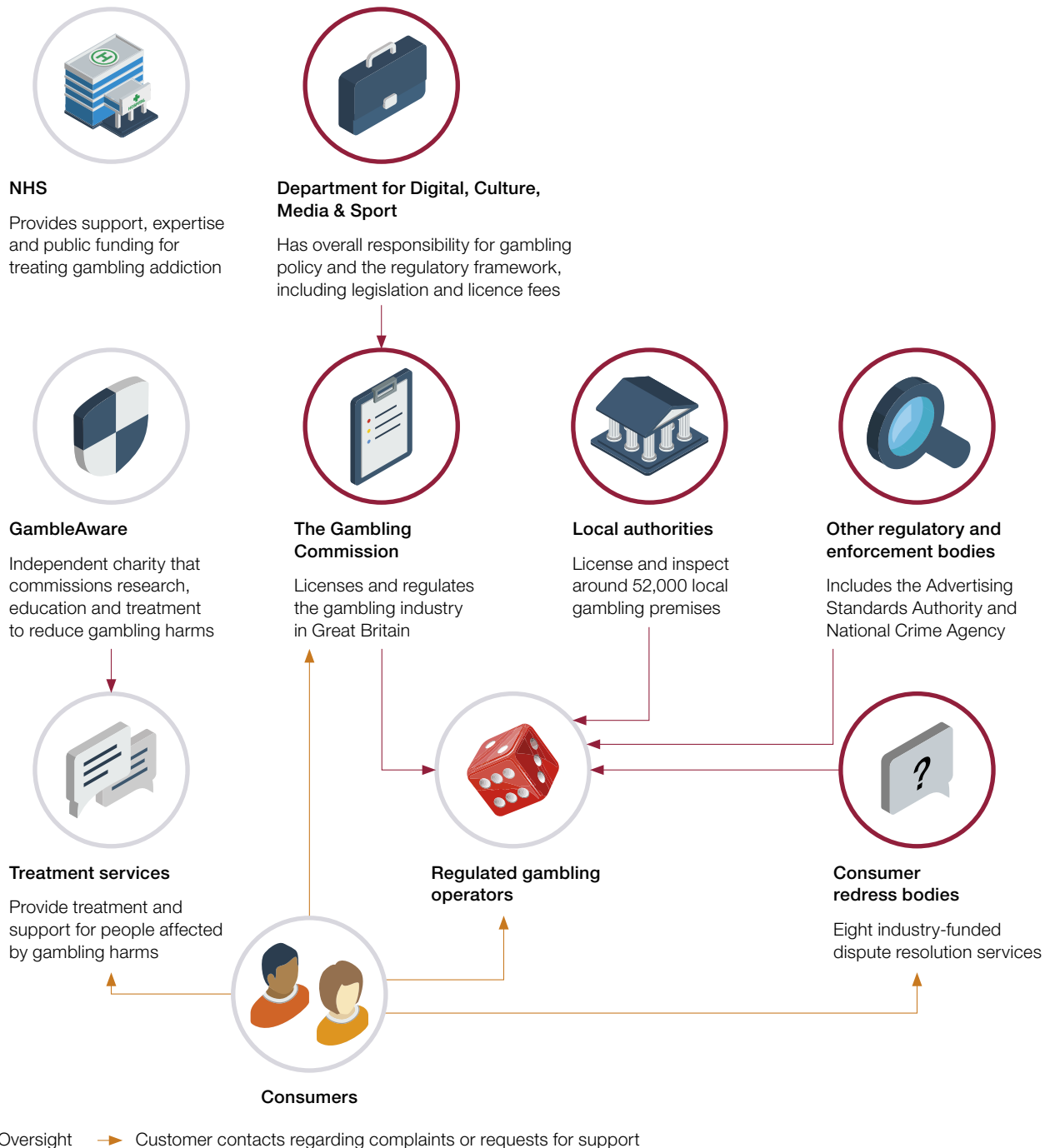
1.4 The Gambling Commission (the Commission) regulates commercial gambling in Great Britain. All gambling operators must have a licence, and the Commission has powers to set licence conditions and codes of practice and to monitor and enforce compliance with these. It seeks to ensure gambling is fair and safe, and is guided by a statutory objective for gambling licensing to protect children and other vulnerable persons from being harmed or exploited by gambling. It also has statutory licensing objectives to prevent gambling from being a source of crime and to ensure gambling is conducted fairly and openly, a duty to advise government on gambling regulation, and separate objectives relating to the operation of the National Lottery. The Commission is a non-departmental public body sponsored by the Department for Digital, Culture, Media & Sport (DCMS) and is funded by licence fees from gambling operators (£19 million in 2018-19).

1.5 To meet its objectives, the Commission works with other public, private and charitable bodies (**Figure 1**). This includes DCMS, which is the government department with overall responsibility for gambling policy and the regulatory framework. DCMS introduces legislative changes where necessary, sets licence fees and has an objective to ensure commercial gambling is socially responsible.

1.6 Like many sectors, the gambling industry and the way people gamble are influenced by technological and social developments. The industry is larger and more accessible than it has ever been, with licensed gambling having grown by 57% (£4.1 billion) in real terms over the past decade. This growth is mostly due to a significant increase in licensed online and mobile gambling, which did not need to be licensed in Britain before November 2014 if it was based overseas (**Figure 2** on page 16). The Commission also monitors new risks emerging from areas that are not legally defined as gambling but share similar features. For example, 'loot boxes' in video games are sometimes paid for in cash, with a reward that is based on chance but not of monetary value and therefore not part of the Commission's regulatory remit.

Figure 1
The gambling regulation framework in Great Britain

The Gambling Commission works with several other organisations to protect consumers



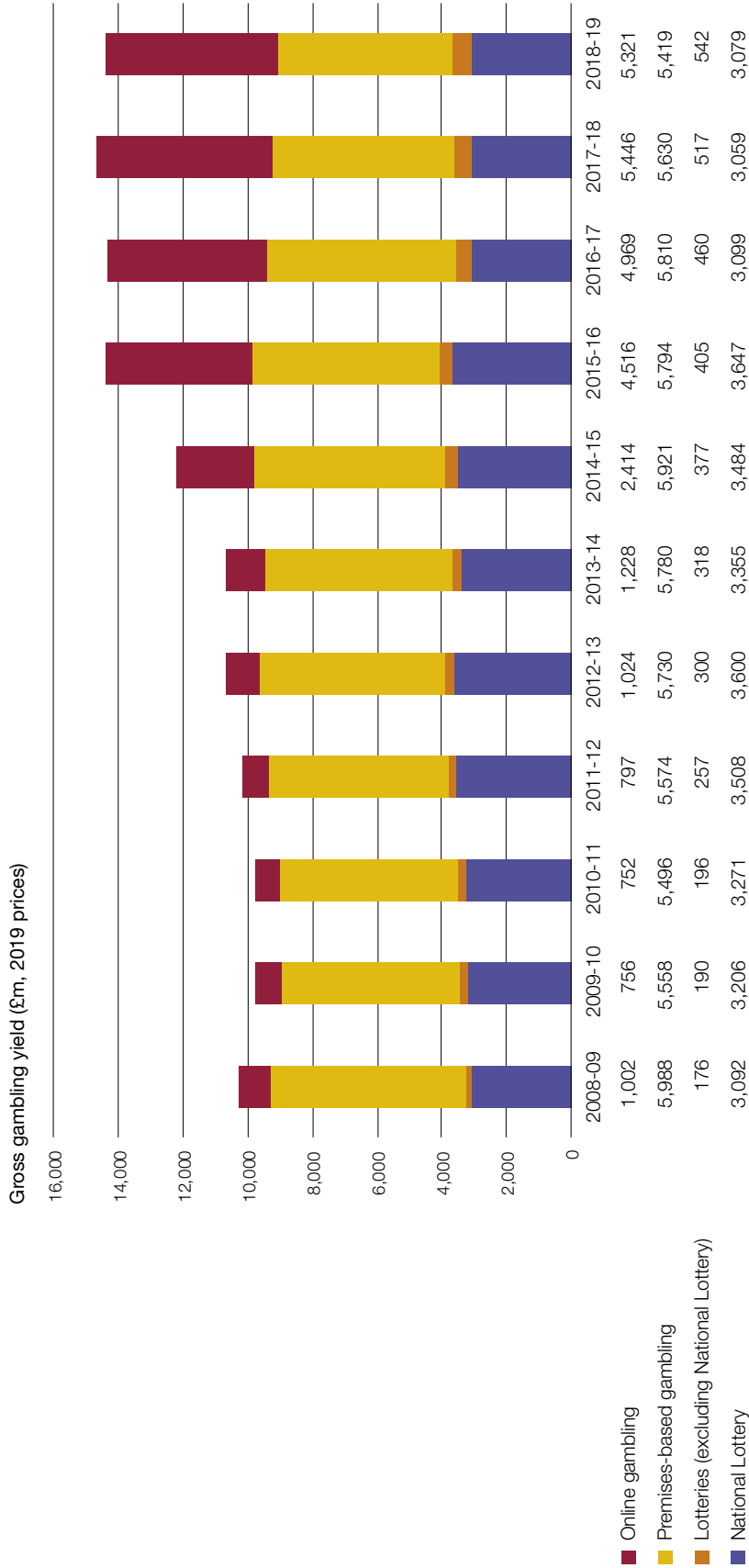
Notes

- 1 Regulatory and enforcement bodies are in red, other relevant organisations and people are in grey.
- 2 There are a range of other non-regulatory organisations, such as charities and academics, involved in research, education and treatment.

Source: National Audit Office analysis

Figure 2
Gross gambling yield in Great Britain, by sector

Excluding the National Lottery, licensed gambling grew by 57% in real terms between 2008-09 and 2018-19, mostly due to an increase in online gambling



Notes

- 1 Gross gambling yield is revenue minus winnings paid out. Premises-based gambling includes arcades, bookmakers, bingo and casinos; online gambling includes betting, bingo and casinos undertaken electronically, including via mobile phone; and lotteries can be both online and premises-based.
- 2 The above figures are adjusted for inflation using the Consumer Price Index including housing costs (CPIH).
- 3 Until November 2014, online gambling based outside Great Britain did not need to be licensed and regulated, and so the extent of online gambling was not fully reported.

Source: National Audit Office analysis of Gambling Commission data

Part Two

Identifying and responding to gambling-related harm

2.1 Government and regulators need to understand the scale, nature and impact of the problems they are seeking to address in order to design and implement an appropriate regulatory response. For example, the Gambling Commission (the Commission) needs to understand how many people experience gambling-related harms and what impact this has on individuals, public services and wider society, to ensure its interventions are sufficient and targeted. Regulators should also be clear about what they are trying to achieve and how they plan to achieve their aims.

2.2 This part examines:

- whether the Commission and the Department for Digital, Culture, Media & Sport (DCMS) have a good understanding of the scale, nature and impact of gambling problems; and
- whether the Commission has clearly defined what it is trying to achieve, and how it plans to realise its goals.

Understanding the problem

Identifying the number of people affected

2.3 To estimate the number of problem gamblers in Great Britain, the Commission contributes specific questions on gambling in three independent health surveys: the Health Survey for England, the Scottish Health Survey and the Wales Omnibus Survey. It also commissions separate surveys of 11- to 16-year-olds. These surveys include questions on whether people have experienced various negative consequences from gambling (such as to their health, financial position or relationships, or resulting in crime), or behaviours likely to lead to harm. Those who have experienced a high enough number of consequences or behaviours are classified as problem gamblers. Those who experience fewer, but still some, consequences are classified as at-risk gamblers.

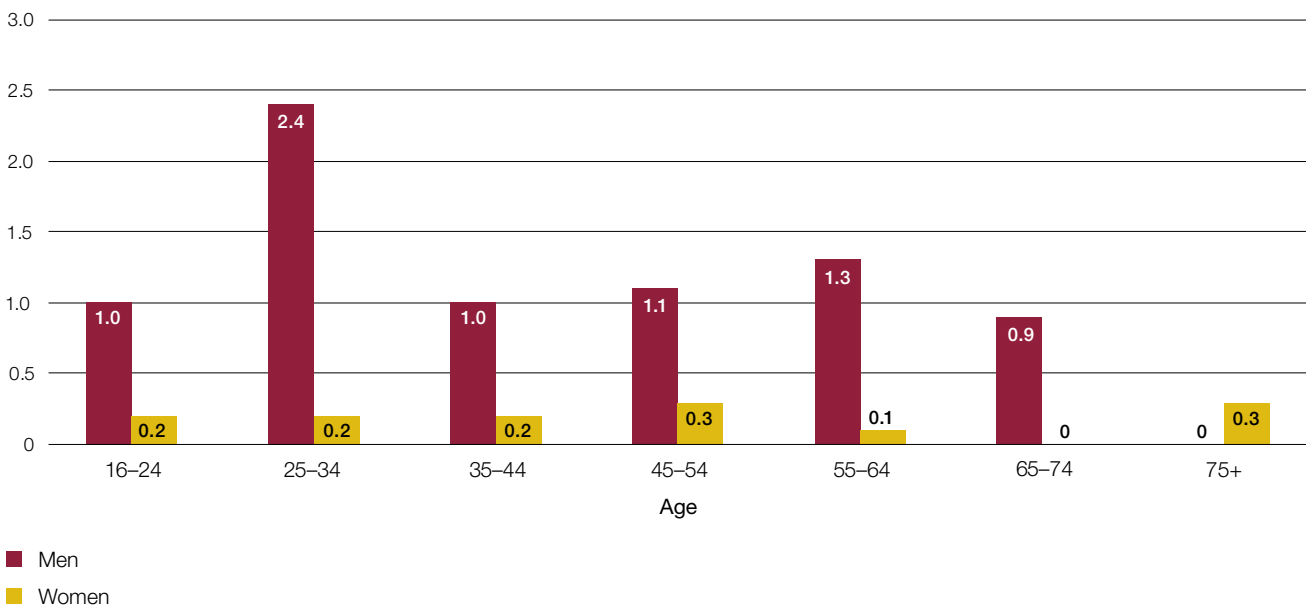
2.4 The Commission estimates that the number of adult problem gamblers in Great Britain is 340,000. The surveys cannot predict the exact number with certainty, and the figure could be up to around 100,000 higher or lower. Prevalence rates of problem gambling among adults have not changed significantly since 2012 when a consistent measurement was introduced. The Commission also estimates that a further 1,740,000 adults are at risk, and therefore may also be experiencing harm. There is significant demographic variation – adult problem gamblers are more likely to be male, aged 25 to 34, and from some ethnic minority backgrounds (**Figure 3**).

2.5 Estimates of the number of children that experience gambling-related harm have risen in recent years. The Commission estimates that there are around 55,000 problem gamblers aged 11 to 16 in Great Britain (which could be up to around 20,000 higher or lower due to uncertainty in the estimates). A further 85,000 are estimated to be at risk and so may also be experiencing harm (meaning a total of around 1.8 million adults and children at risk). These estimates are nearly twice as high as the estimates in 2017, which is considered to be primarily due to changes in how problem gambling among young people is measured. In 2019, the NHS opened its first gambling clinic for children and young people amid growing concern around the impact of online gaming and gambling on young people’s mental health.

Figure 3
Distribution of problem gamblers in Great Britain by age and sex

Men aged between 25 and 34 are most likely to be problem gamblers

Estimated prevalence of problem gamblers (%)



Note

1 Prevalence figures are the percentage of people in each age and sex grouping estimated to be problem gamblers.

Source: NatCen, *Gambling behaviour in Great Britain in 2016*, commissioned by the Gambling Commission

2.6 The Commission's estimates are useful indicators of the prevalence of gambling problems, but also have limitations. The health surveys are every two years, so do not provide a fully up-to-date picture. They are also a snapshot in time and do not report new cases of problem gambling, so it is not possible to tell what proportion of problem gamblers are new. The estimates also do not give a full picture of those affected by problem gambling other than the gambler. Research in 2017 suggested that around six additional people, such as family and friends, are directly affected by every problem gambler.²

Understanding the causes and impacts of gambling problems

2.7 To develop an effective regulatory response, it is important for government and regulators to understand not just the number of people affected, but also the causes and impacts of the problems they are seeking to address. People can experience gambling problems for a variety of reasons, and are impacted differently, with some developing serious addictions. Understanding the impact of gambling harm on individuals, public services and wider society helps to determine the overall scale of regulation required to address the issues. It is also important to understand how problems occur, including consumer behaviours and operator practices that make addiction more likely (**Case study 2**), so that regulation can be targeted on the most significant causes of harm.

Case study 2

We reviewed online discussion forums and found examples of people who had been contacted by operators and encouraged to gamble, including using cash inducements. In some of these examples, the gambler had found it difficult to self-exclude successfully. Generally, the gambler felt mentally low and vulnerable as a result of the contact. In the most severe cases, the contact prompted a relapse into problem gambling.

Source: National Audit Office analysis of online messaging boards

2.8 To understand the causes and impacts of gambling harm, the Commission uses its own research as well as that from others. The Commission's research monitors participation in gambling activity, and also examines behaviour, awareness and attitudes towards gambling among consumers and the wider public. The Commission also works in a tripartite arrangement with GambleAware (an independent charity whose funding comes from the gambling industry) and the Advisory Board for Safer Gambling (which provides independent expert advice to the Commission) to commission research. Research is largely commissioned by GambleAware, based on priorities set in consultation with the Commission. In 2018-19, GambleAware spent £2 million on research and evaluation.

² B C Goodwin, M Browne, M Rockloff and J Rose, 'A typical problem gambler affects six others', *International Gambling Studies*, vol. 17 issue 2, June 2017, pp. 276–289.

2.9 The availability of evidence on the causes and impacts of gambling problems is limited compared with other addictions, such as alcohol dependency, or other consumer problems such as problem debt. We found the following:

- Many stakeholders, including Public Health England and the NHS, have started to approach gambling-related harms as a public health matter. However, government's understanding of problem gambling is limited by comparison with other addiction-related areas of public health, such as alcohol dependency and obesity. For example, gambling problems are not currently measured in a similar way to local alcohol profiles in England, which monitor the impact of alcohol on local communities.
- Similarly, data do not currently exist to allow robust measurement of the causal impact of problem gambling. In our 2018 report on problem debt, we used longitudinal national survey data to model the direct impact of being over-indebted on people's likelihood to experience anxiety and depression or live in state-subsidised housing, and we estimated the resulting extra cost to public services.³ We have not been able to do the same for gambling problems, because no similar longitudinal data exist.
- Independent research does exist and provides the Commission and DCMS with some level of insight, but this is limited and presents only a partial picture. For example, recent studies have examined areas such as the influence of parental attitudes and behaviours on gambling-related harm in young people and the link between problem gambling and suicide. One independent estimate in 2016 indicated that problem gamblers are associated with between £260 million and £1.16 billion a year of extra costs to public services, but this examined only the correlation between them and not the causal impact of problem gambling.⁴

2.10 Public bodies have recognised the limitations of current evidence on gambling-related harms. For example, in 2018 the Commission and the Advisory Board for Safer Gambling set out a plan to develop a new approach to how harms can be measured and better understood. Their proposed approach intends to improve understanding of the full range of social and economic harms gambling can have on society, agree a definition of gambling-related harm, and make recommendations about how the societal cost could be estimated. Public Health England is also carrying out a separate evidence review on the prevalence of gambling and associated health harms, and their social and economic burden. The review is expected to be completed in spring 2020 and aims to identify gaps in the evidence base, which will inform the direction of future research.

³ Comptroller and Auditor General, *Tackling problem debt*, Session 2017–2019, HC 1499, National Audit Office, September 2018.

⁴ Institute for Public Policy Research, *Cards on the table: The cost to government associated with people who are problem gamblers in Britain*, December 2016.

Defining what regulation is intended to achieve

2.11 Like most regulators, the Commission's statutory objectives are set at a high level. Regulators need to interpret their statutory objectives into strategic priorities and define clear, measurable aims so that teams across the regulator, and external stakeholders they work with, have a common understanding of what they are aiming to achieve and can judge progress. Success criteria help stakeholders, including industry, to understand the regulator's expectations and priorities for improvement.

2.12 The Commission is clear in describing its overall aim to make gambling safer. It has also translated this and its statutory objectives, including to protect children and other vulnerable persons from being harmed or exploited by gambling objective, into strategic priorities, business plan activities and the high-level outcomes it wants to achieve (**Figure 4** overleaf).

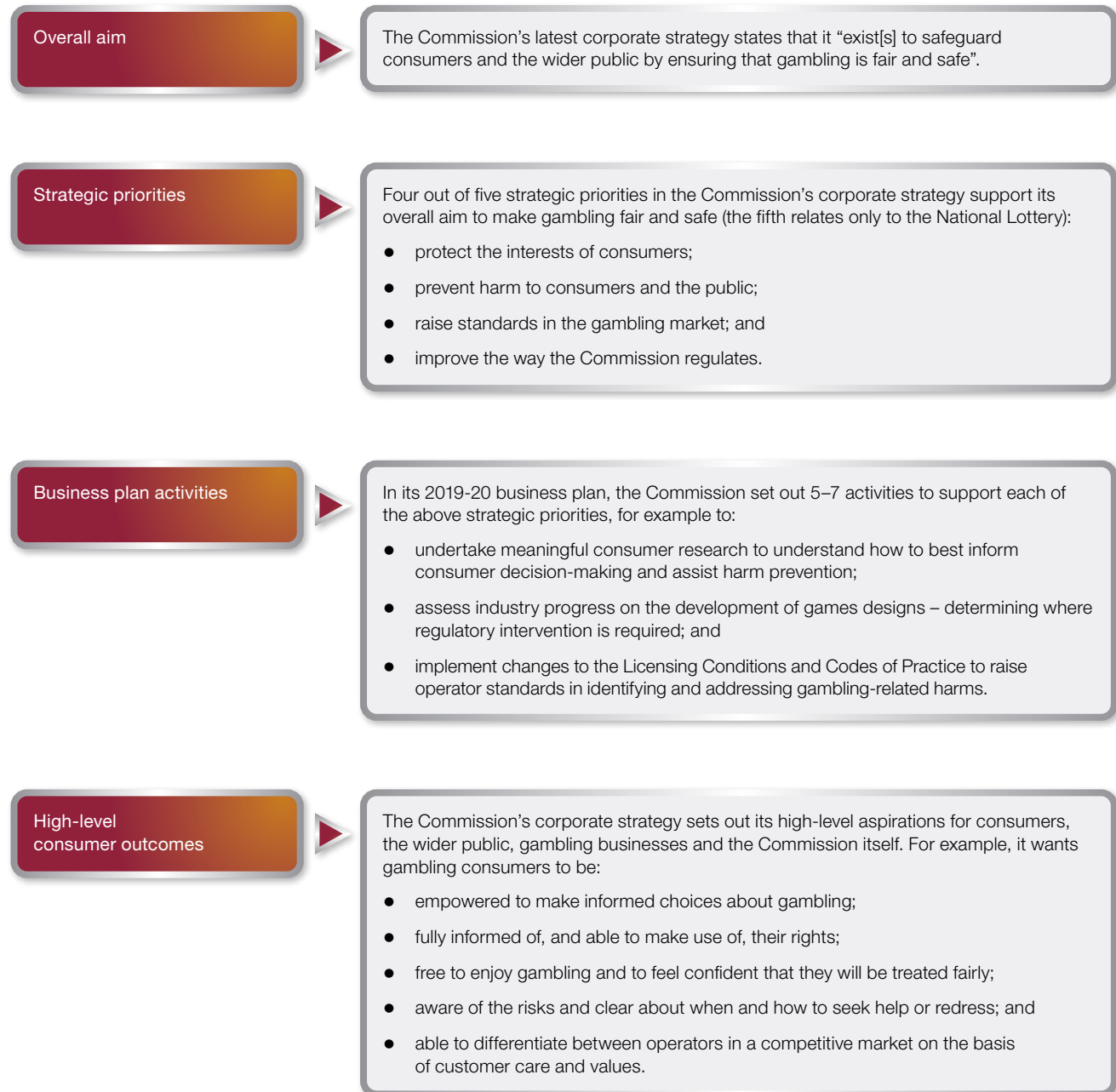
2.13 While the Commission has articulated its intended consumer outcomes at a high level, it has not done the following:

- Developed these high-level outcomes into detailed, measurable success criteria against which to judge progress. For example, for consumers to be free to enjoy gambling safely, the Commission wants to see the number of people affected by problem gambling to reduce significantly. However, while it recognises that no problem gambling at all is unrealistic and outside of its control, it has not articulated what level of reduction, over what period of time, would indicate good progress.
- Articulated in detail how it interprets which consumers may be vulnerable and when. Vulnerability is difficult to define precisely, as it can depend heavily on circumstances, and regulators typically recognise that vulnerable consumers are, due to their circumstances, particularly susceptible to harm.
- Established the outcomes it wants to achieve for particular demographics it recognises as being most at risk.
- Articulated how its overall focus on safer gambling translates into the work of different teams throughout the organisation.

Figure 4

The Gambling Commission's aims and objectives

The Gambling Commission (the Commission) has translated its statutory objectives and overall aim to make gambling safer into strategic priorities, business plan activities and intended consumer outcomes



Part Three

Acting to keep consumers safe

3.1 Good regulation involves intervening in a timely, proportionate and effective way, based on good intelligence on where problems are occurring in the market and an understanding of whether intervention is having the desired effect. Interventions typically include taking enforcement action against firms that break rules, changing the rules where gaps are identified and working with others to incentivise the market to raise standards in general.

3.2 This part examines:

- the quality of the information the Gambling Commission (the Commission) uses to decide whether to intervene or not;
- whether the Commission intervenes effectively to prevent and address gambling-related harms;
- how the Commission works with other organisations to ensure consumers are protected; and
- whether the Commission can measure whether gambling regulation is as effective as it could be.

Monitoring what is going wrong for consumers

3.3 The Commission collects, analyses and monitors different intelligence sources to identify consumer problems in the gambling market. This includes data provided on a routine basis by gambling operators, insight provided by external organisations such as law enforcement agencies, and developments reported on social media (**Figure 5** overleaf). The Commission assesses each piece of intelligence as part of a prioritisation framework to identify risks to consumers and emerging issues.

Figure 5

Gambling Commission's main intelligence sources

The Gambling Commission (the Commission) uses a range of sources to identify consumer problems



Note

1 This is not an exhaustive list of Gambling Commission intelligence sources.

Source: National Audit Office observation and review of Gambling Commission documents

3.4 The Commission's insight into consumer problems largely depends on the volume, quality and range of intelligence it receives on operator practices and consumer experiences. The number of individual intelligence submissions it gathered and received between 2014 and 2018 increased by 19%. Most of these submissions were generated directly or via intelligence-sharing systems by Commission staff from the course of their daily work, such as financial intelligence officers recording their analysis of data provided by a gambling provider.

3.5 However, there are gaps in the Commission's intelligence base that limits its ability to identify and respond effectively to consumer harm:

- The Commission relies on local licensing authority inspections for intelligence on licensed gambling premises. These inspections help the Commission to understand how national operators' policies, such as on self-exclusion or staff training, are implemented in practice. There is considerable regional variation, with 119 authorities not conducting any inspections in 2018-19 (**Figure 6** overleaf) and around 60 not conducting any for the past three years. The Commission's data show that over the past nine years, 89% of inspections were pre-planned and the operators knew they would happen in advance.
- The Commission has limited access to intelligence about online operators based overseas who are not licensed and are therefore providing illegal gambling services. It relies on information provided by international organisations, such as domain hosting companies or payment and software providers, for the intelligence it needs to disrupt their activities.

3.6 The Commission also does not make full use of the data it does have to identify consumer problems.

- In 2018-19 its contact centre was contacted by consumers approximately 33,000 times through email, post and telephone, only around 9,000 of which were directly relevant to the Commission's role. The Commission analyses some of the data provided by its contact centre to support policy considerations and compliance activity. However, it does not systematically collect and analyse detailed data on the problems consumers are contacting them about. For example, although a consumer complaint can relate to multiple issues, the Commission only records the most prominent issue.
- There is not an ombudsman in the gambling sector, but eight separate dispute resolution providers. These providers have data and insight into the problems consumers are experiencing and how these are changing over time. Providers submit complaints data to the Commission each quarter, but this is at a high level and the Commission does not analyse it alongside its own data on a consistent basis to provide a complete perspective of consumer problems in the market.

Figure 6

Licensing authority inspections and visits in Great Britain in 2018-19

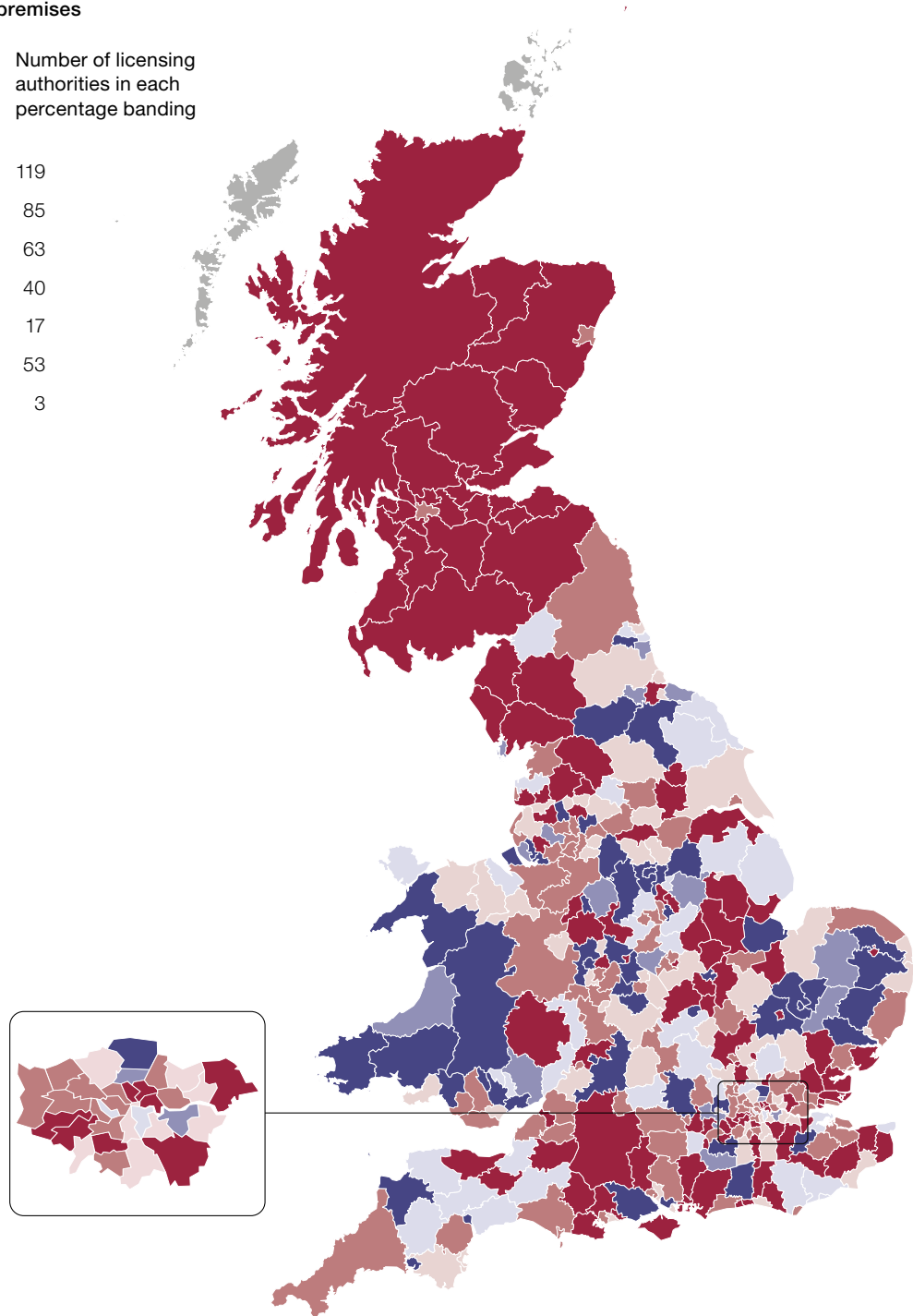
Between April 2018 and March 2019, 119 local licensing authorities did not conduct any inspections of gambling premises

Licensing authority inspections as a percentage of total premises

- 0%
- 1% – 24.99%
- 25% – 49.99%
- 50% – 74.99%
- 75% – 99.99%
- 100% +
- No gambling premises

Number of licensing authorities in each percentage banding

- 119
- 85
- 63
- 40
- 17
- 53
- 3



Note

1 This is based on the number of gambling premises as of May 2019.

Source: National Audit Office analysis of Gambling Commission data

Intervening to protect consumers

Licensing and enforcement

3.7 The Commission has a range of powers and tools to help it achieve its licensing objectives, including protecting people from gambling-related harm. The Commission sets the conditions and codes of practice required for an operator to hold a licence, and has powers to take enforcement action where these conditions are breached, including revoking a licence (**Figure 7** overleaf). The Commission has the power to investigate whether an offence has been committed under the 2005 Gambling Act and may institute criminal proceedings if it deems it appropriate. Regulators use enforcement against rule-breaking as an important deterrent to discourage other companies from breaking rules and causing further harm.

3.8 The Commission can make amendments or additions to the licence conditions and codes of practice, to reflect the risks to consumers it has identified and emerging evidence on the most effective means of tackling those risks. It does this through a process of consultation with stakeholder groups, including consumer and industry representatives. The Commission acknowledges that some of its licence conditions and codes have not been effective at making gambling safer, and has been making incremental improvements (**Figure 8** on page 29).

3.9 We examined two examples of the Commission's recent changes to licence conditions as case studies, to consider how timely they were in minimising the risk of consumer harm. In these case studies, we found there were a few years between the Commission first recognising weaknesses in how well the existing rules minimised consumer harm and changing licence conditions or codes of practice to address this harm (**Case study 3**).

Case study 3

In October 2018, the Gambling Commission updated its licence conditions and codes of practice to reduce the potential for consumers to be misled by terms and practices relating to online bonus promotions, and to stop operators preventing customers from withdrawing funds from their accounts. The Commission first identified weaknesses with the previous licence conditions in 2015, three years before changes took effect. During this time, it undertook joint work with the Competition and Markets Authority to investigate how online gambling companies were treating their customers in terms of fairness and transparency.

In October 2019, the Commission introduced changes to improve the effectiveness of codes of practice that set out how operators should identify and interact with customers who may be at risk of, or experiencing, gambling problems. The Commission established that the previous codes were not sufficiently effective in 2017, two years before changes took effect.

Source: National Audit Office analysis of Gambling Commission information

Figure 7

Gambling Commission's enforcement powers

The Gambling Commission has powers to grant licences to operators, investigate compliance with licence conditions and enforce against breaches of these conditions

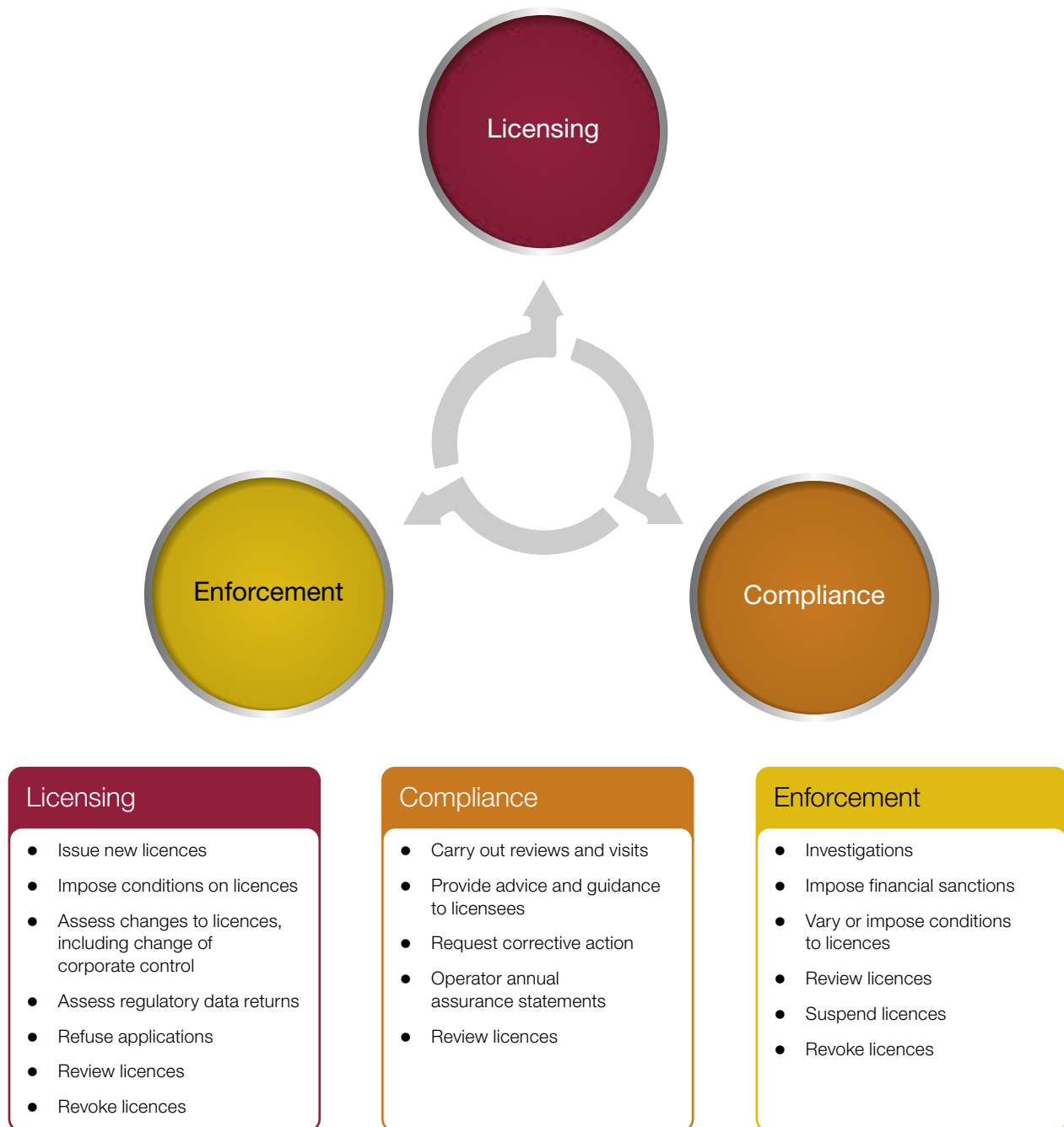
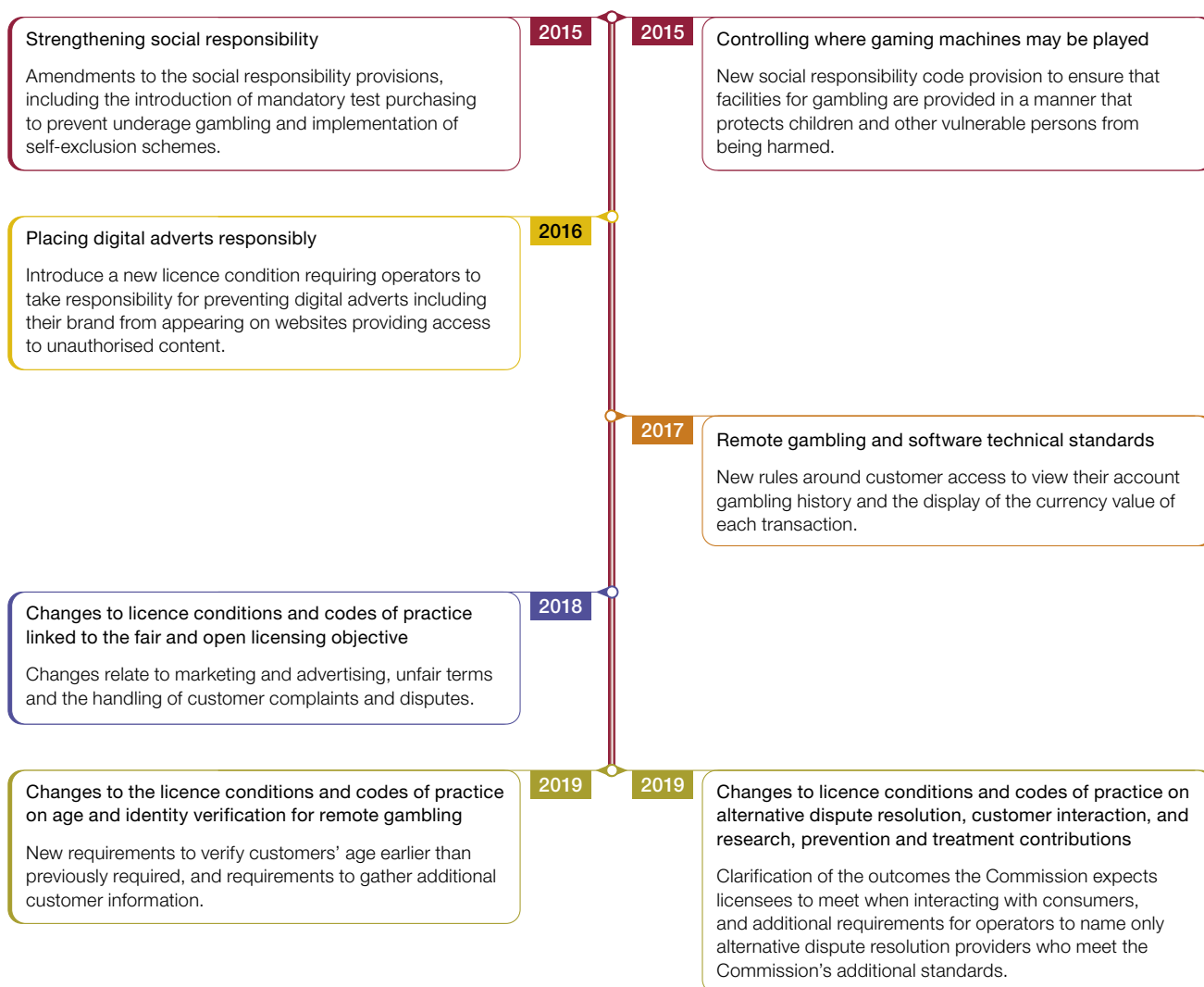


Figure 8

Gambling Commission consultations on regulatory changes

The Gambling Commission (the Commission) has consulted seven times since 2015 on changes to licence conditions and codes of practice intended to make gambling safer



Source: National Audit Office analysis of Gambling Commission consultations

3.10 The Commission undertakes enforcement activity to penalise non-compliance with rules and deter licensed operators from deliberately or inadvertently failing to meet licence standards or codes of practice. This can result in formal sanctions, the most significant of which is to revoke an operator's licence, and which also includes issuing fines, giving formal warnings and suspending licences. The Commission can also use regulatory settlements, where it agrees an appropriate financial penalty to be paid to a good cause related to gambling problems without the need to complete the formal legal process.

3.11 The Commission has increased enforcement actions against operators that break rules. Between April 2014 and March 2019, the Commission did the following:

- Revoked the licence of eight gambling businesses and eight senior individuals working in the industry.
- Enforced 29 financial penalties (7 fines and 22 regulatory settlements). The total number of penalties increased from three in 2014-15 to nine in 2018-19 (**Figure 9**). The value of these penalties also increased from a combined value of £1.4 million (average of £0.5 million per penalty) to £19.6 million (average of £2.2 million per penalty) over the same period. Most of the total figure comes from a small number of large penalties, and the Commission does not know the extent to which these increases have strengthened the deterrent effect of enforcement action.

Incentivising industry to go beyond minimum standards

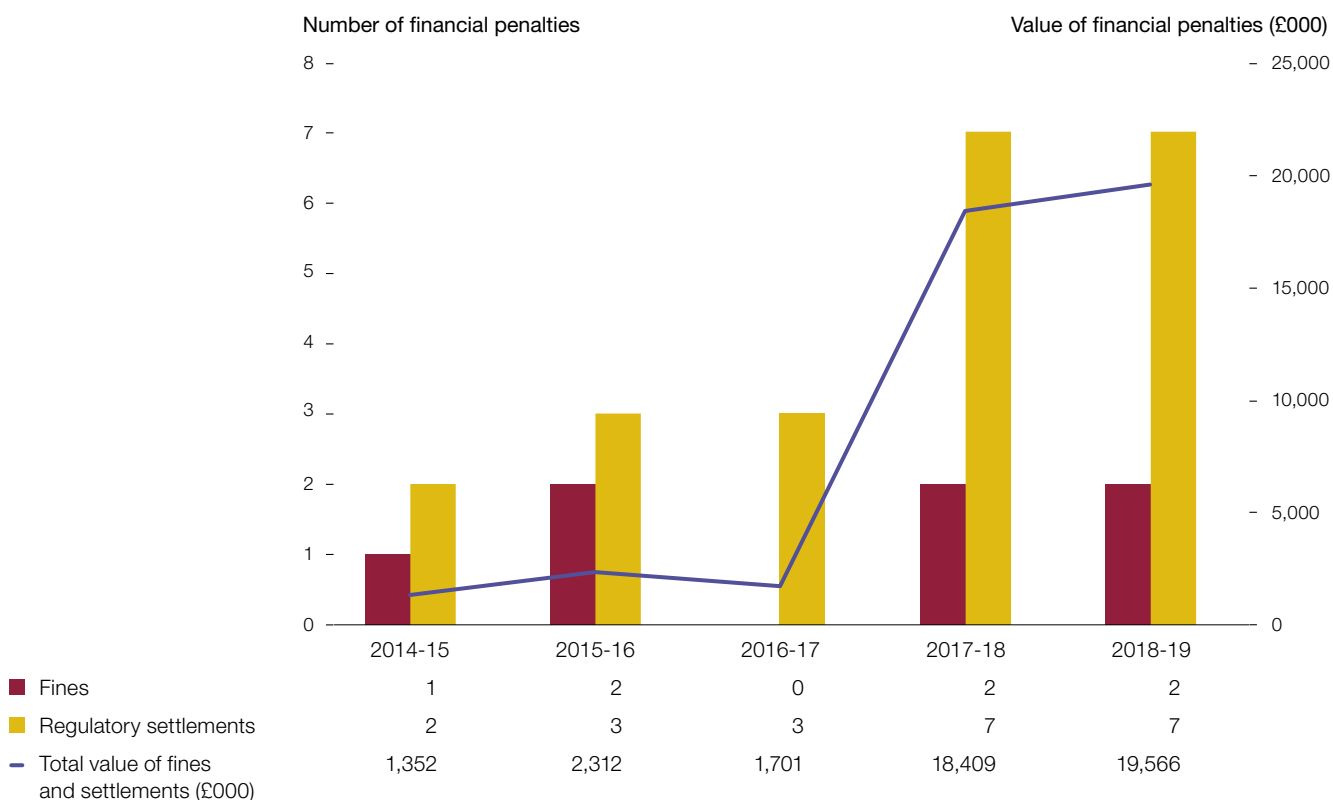
3.12 Effective regulation not only penalises rule-breaking, but also raises standards across the industry by incentivising and supporting companies to go beyond minimum requirements. Regulators can use their powers and insight to create the market conditions that influence operators to proactively improve how they treat customers and ensure that harm is minimised.

3.13 The Commission recognises that its licence conditions and codes of practice are a starting point, and it aims for operators to do more to treat customers well. The Commission uses various methods to influence operators to achieve this aim, for example organising workshops to share good practices and developing annual assurance statements for larger operators to complete and reflect on how they are treating their customers. Industry representatives we interviewed indicated that more clarity from the Commission about its expectations, and a more collaborative relationship, would help to raise standards.

Figure 9

Number and value of the Gambling Commission’s fines and regulatory settlements

There has been an increase in the number and value of regulatory settlements since 2016-17



Note

1 Financial figures have not been adjusted for inflation.

Source: National Audit Office analysis of Gambling Commission data

3.14 We found some common approaches other regulators use that the Commission has not introduced and could benefit from (**Figure 10**). In particular, it has not explored opportunities to create a competitive market that rewards operators that go beyond the minimum standards, for example by providing consumers with information and tools to identify operators that treat consumers fairly or where the risk of harm is lower. Information such as operators' annual assurance statements or GamCare's Safer Gambling Standard already exist, but the Commission has not considered how it might best support and use these to inform consumers and place reputational incentives on operators. The Commission has also not explored how it could place direct financial incentives or rewards, for example by reducing regulatory fees for operators that have gone beyond the minimum standards, under a revised funding model.

Figure 10

Gambling Commission's use of regulatory methods to incentivise operators to treat consumers fairly

Method	How used by other UK regulators	Used by Gambling Commission?
Published guidance	Publishing written explanations, such as regulatory guidance, explaining regulatory rules and how to comply with them.	Yes – for example, the Gambling Commission's (the Commission's) enforcement report <i>Raising Standards for Consumers</i> .
Stakeholder engagement and partnership working	Meeting companies and industry representatives to clarify expectations. This can include regulatory events, collaboration workshops and other joint working.	Yes – for example, small operator workshops or the Commission's Raising Standards 2018 event.
External communication channels	Communicating expectations of good practice through external communications, such as public speeches, blogs and webinars.	Yes – for example, public speeches by the Commission's Chief Executive.
Assurance from companies	Information request for companies to demonstrate how they meet or exceed regulatory requirements.	Yes – mandatory annual assurance statements for larger operators that the Commission has run since 2015.
League tables or other public recognition of good practice	Ranking and publishing league tables of performance on treating customers fairly, or other public recognition of good practice such as blogs or awards. This would help consumers make informed choices on which provider to gamble with.	No.
Financial incentives	Financial incentives for desired behaviours, such as through licence or inspection fees or via price controls.	No.

Source: National Audit Office analysis of Gambling Commission interventions and approaches used by other regulators

Working with others to make gambling safer

3.15 While the Commission has licensing objectives to protect consumers from harm, its direct role and powers are limited to regulating operators. It therefore works with other organisations to achieve its overall aims to ensure gambling is fair and safe. Safe gambling is an aspect of a well-functioning market, and regulation is one of several tools that can be used to realise this goal. Other interventions include educating people about the risk of gambling-related harms, and treating and supporting people who experience problems. Effective consumer protection also usually involves other functions, such as consumer advocacy and complaints services. The Commission works with other organisations that have related objectives to prevent or address gambling-related harms:

- The Commission has an established relationship with other regulatory organisations. For example, it works with the Committee of Advertising Practice and the Advertising Standards Authority to clarify operator requirements relating to gambling advertising.
- The Commission is also taking an increasingly proactive approach to engaging with organisations outside the regulatory framework. In 2019, it began working with the Money and Mental Health Policy Institute on a project to engage financial services firms with efforts to tackle gambling-related harm, and has liaised with Public Health England on its review to better understand gambling-related harms. One potential gap in the Commission's wider engagement is the direct perspective of people who have been harmed by gambling problems. Unlike other regulators related to health and care, such as the Health and Care Professions Council which directly involves service users in a number of ways, the Commission does not have a mechanism to include the perspectives and experiences of recovered or recovering problem gamblers.

3.16 In April 2019, the Commission launched a three-year national strategy to reduce gambling harms. This articulates how various activities from different organisations that aim to make gambling safer fit into an overall framework. This includes activities outside the Commission's regulatory remit, such as the education or treatment of consumers. The Commission considered that there were benefits in a more collective approach, and took on responsibility to lead the development of the strategy in the absence of anything similar already existing. Although it is too early to evaluate the impact of this strategy, many stakeholders we interviewed welcomed the Commission's efforts to bring key organisations together and take a more coherent approach.

3.17 Within the regulatory arrangements as currently designed, consumers can seek redress when an operator does not fulfil its terms and conditions by complaining to one of eight industry-funded dispute resolution services approved by the Commission. Consumers cannot typically seek redress from them in instances where operators have failed to abide by social responsibility codes of practice, for example requiring them to help consumers stop gambling for a defined period of time when the consumer requests this. There is also no statutory consumer representative organisation, as exists in some sectors. The Commission has therefore found it difficult to direct consumers seeking support to relevant organisations consistently. The Commission receives thousands of complaints each year from consumers, but plays no role in resolving them.

Measuring the effectiveness of gambling regulation

3.18 Regulators need a good understanding of their performance and impact so they can prioritise what works, take corrective action and be held accountable for their performance. Good performance measurement includes setting clear benchmarks to measure performance against, monitoring good-quality data to assess performance, evaluating regulatory impact on key issues and reporting performance transparently to a range of stakeholders.⁵ Performance measurement is particularly challenging for regulators as they have limited control over their intended outcomes.

3.19 The Commission generally follows good practice in reporting performance to its board. It reports quarterly a set of indicators which are clearly linked to each of its strategic priorities, including protecting the interests of consumers and preventing harm to consumers and the public. Board performance reports include some external measures of consumer outcomes, such as estimated numbers of problem gamblers. They also include a narrative assessment which draws together the Commission's achievements and the barriers to good performance.

3.20 We identified some weaknesses in the Commission's approach to measuring its performance and impact. The outcomes it measures are not comprehensive and are mostly limited to survey data which measure the level of problem gambling. These metrics do not, for example, assess how well the Commission's work reaches consumers it recognises to be most at risk (such as young men, ethnic minorities or vulnerable consumers). The performance measures are also not set against clear benchmarks or targets, which makes it difficult to measure how well the Commission is doing against its aims. The Commission undertakes some evaluation of its impact, although these are mostly limited examinations of whether its projects have been delivered as planned, with little assessment of the outcomes achieved, the timeliness of interventions or the effectiveness of industry-led initiatives to protect consumers from harm. The Commission has identified this gap and is shifting the emphasis of its evaluations to focus on assessing the actual change achieved as a result of its activities.

⁵ National Audit Office, *Performance measurement by regulators*, November 2016.

Part Four

Responding to social and technological change

4.1 Like many sectors, the gambling industry and the ways people gamble can change quickly, for example due to changing technologies and a significant increase in online and mobile gambling. When a regulated product or service experiences fast-paced change, it is important that the regulation is able to respond to these changes and address emerging risks.

4.2 This part therefore examines:

- whether the Gambling Commission (the Commission) has the powers and expertise it needs to understand and respond to changes in a timely manner; and
- whether the way that gambling regulation is funded ensures the Commission has the capacity and skills needed to address new risks it identifies.

Identifying and responding to changing risks

Understanding the impact of changes in the gambling industry

4.3 Regulators need a good understanding of what is changing, and what risks or impacts on consumers result from these changes, in order to determine what regulatory response, if any, is needed. As well as new risks, technological changes can also lead to opportunities for better protections, such as ways to identify and support potential problem gamblers.

4.4 The Commission monitors industry and consumer developments and trends, such as consumer participation rates and operators' yield in different types of gambling, and public perceptions and attitudes towards gambling. It also uses data and analysis from other organisations, such as trends in advertising. From this work, it has identified a number of key developments that potentially give rise to new risks to consumers and affect how it regulates, including the following:

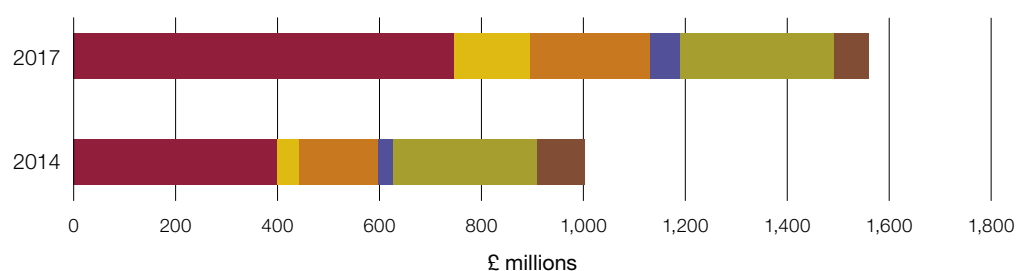
- Excluding the National Lottery, gambling licensed in Britain has grown by 57% (£4.1 billion) in real terms over the past decade, mostly due to a significant increase in online and mobile gambling. Between 2009 and 2019, operators' yield from licensed online gambling increased from £1.0 billion to £5.3 billion in 2019 prices, including a significant increase in November 2014 when all online gambling needed to be licensed (Figure 2 on page 16). In 2018, 44% of people who gambled online did so via a mobile phone, an increase from 23% in 2015.
- Social trends in how people gamble or interact with gambling change over time. For example, the amount that gambling operators spent on advertising and marketing increased by an estimated £558 million (56%) from 2014 to 2017, mostly due to increases of £347 million (87%) online and £107 million (255%) on social media (**Figure 11**). Betting on eSports and video games has also increased in popularity (in 2018, an estimated 16% of 18- to 24-year-olds reported having bet on eSports).
- The Commission also monitors new risks from areas that are not legally defined as gambling but share similar features, such as 'loot boxes' in video games that do not have prizes of monetary value and are therefore not regulated as gambling. Commentators have also expressed concern over casino-style video games that do not involve financial transactions but might increase risks of people, particularly children, developing gambling addictions.

4.5 While the Commission has good awareness of changes in the industry, it has not yet assessed the impact or potential harms of many of these developments for consumers. For example, regulatory efforts to prevent operators from contacting at-risk gamblers to encourage them to gamble more may be less successful if increases in gambling advertising have similar effects. Without a good understanding of these impacts, the Commission is unable to determine whether a regulatory response is needed, and what interventions would be most effective. In its most recent business plan, it has committed to work in partnership with the Advertising Standards Authority to review evidence on the impact of gambling advertising on children, young people and vulnerable people. The Commission has also recognised that it needs to increase its expertise in digital technologies, to better understand changes in the market and therefore to be able to respond quickly.

Figure 11

Gambling advertising spend in Great Britain in 2014 and 2017

Estimated advertising and marketing spend by gambling operators increased by 56% between 2014 and 2017



	2014 (£m)	2017 (£m)
■ Online marketing	400	747
■ Social media	42	149
■ Television	155	234
■ Sponsorship	30	60
■ Affiliates	282	301
■ Other offline advertising	94	70

Note

1 'Affiliates' means marketing through content (for example, mobile phone apps and games) provided by other companies. 'Other offline advertising' includes billboards and newspaper adverts.

Source: Estimates produced by Regulus Partners

Powers to intervene in a timely manner

4.6 As well as understanding what new interventions might be necessary, regulators also need to have the powers necessary to intervene in practice, for example by updating licence conditions.

4.7 Before 2014, the Commission had very limited powers over online gambling websites based outside Great Britain. Commentators identified this as a gap in the regulatory framework that led to potentially significant risks at least as far back as 2001, but it was not until 2014 that new legislation was passed to ensure the Commission could regulate all commercial gambling in Britain.

4.8 The Commission's statutory powers give it considerable scope to make changes to ensure the gambling licences it issues meet its objectives, including to protect consumers. The changes in 2014 therefore mean that, in effect, any commercial gambling provided in Great Britain is illegal except where explicitly licensed by the Commission (and local licensing authorities for gambling premises). Apart from specific areas that are reserved for the Secretary of State (such as setting licence fees, or stakes and prizes on gaming machines such as fixed-odds betting terminals), it is up to the Commission to determine what operators need to do to ensure their licences are consistent with the licensing objectives of the 2005 Gambling Act.

4.9 In practice, the Commission does not always make changes itself, either because it lacks the powers to do so, or due to a lack of evidence over what the best regulatory response would be (paragraph 4.5) and what unintended consequences might result from potential interventions. Some changes have been made via legislation introduced by the Department for Digital, Culture, Media & Sport (DCMS) and enacted by Parliament. A recent example of this was the 2019 reduction to the maximum stake gamblers can place on B2 machines (known as fixed-odds betting terminals or FOBTs) from £100 per play to £2 per play. The Commission does not have powers to change stake limits on gambling machines, but it can take other actions to place new requirements on operators. It also provides formal advice, which government considers alongside other information. In 2013, the Commission advised government that there was "a serious case to answer in relation to B2 machines", and that industry needed to urgently improve transparency and measures to minimise harm for consumers, but that there was not evidence to justify a large reduction to stakes limits. The Commission and DCMS introduced some new requirements on operators, seeking to reduce risks to consumers. Despite these new requirements, in 2018, five years after its previous formal advice, the Commission advised that there was now evidence of significant harm, which supported reduced stakes limits (**Figure 12**).

How gambling regulation is funded

4.10 In any sector, the way regulation is funded needs to be responsive to changing risks, so that regulators can continue to have the overall capacity they need to regulate effectively, and so that they can prioritise their resources on the most pressing issues.

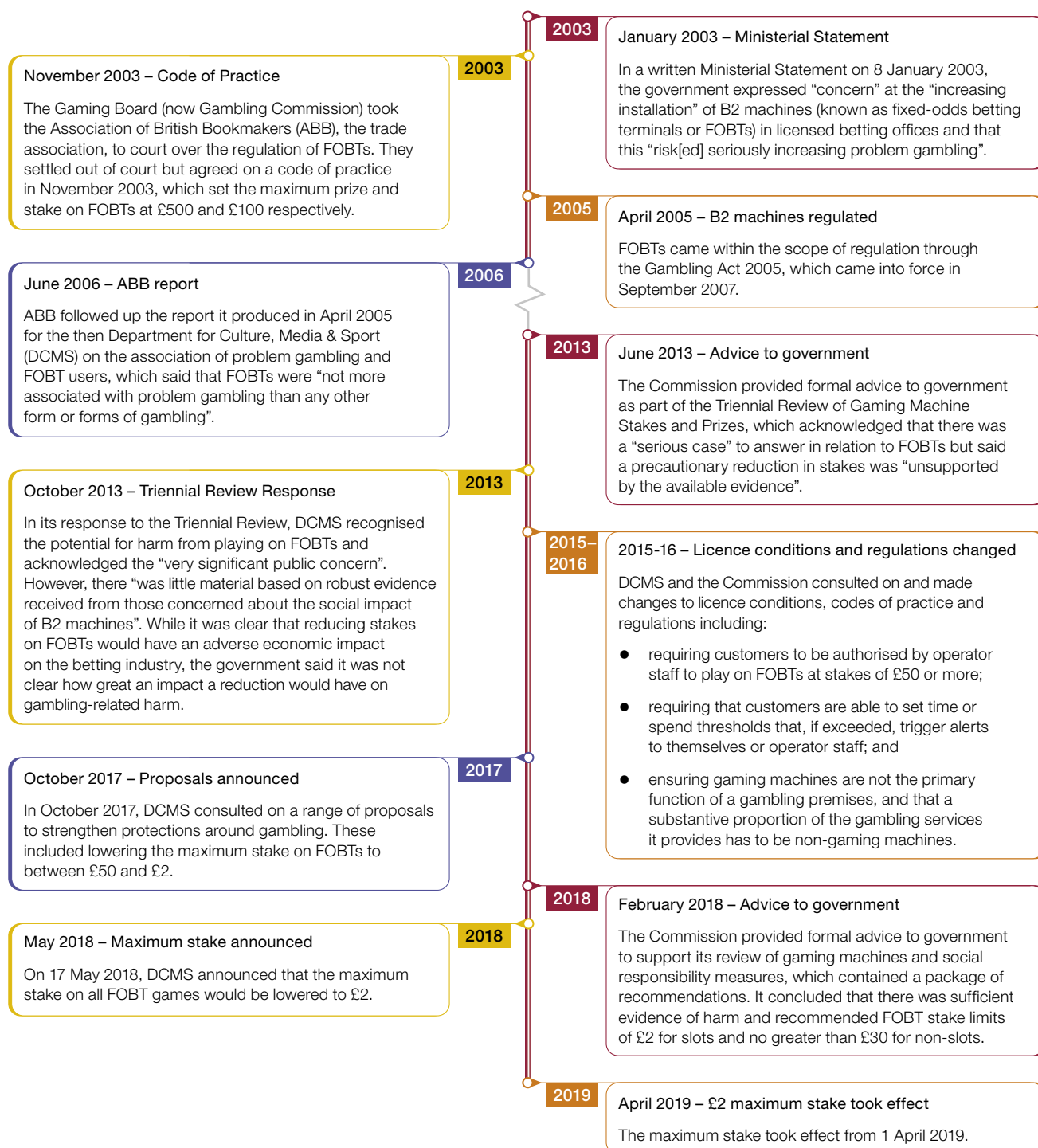
4.11 The Commission received £19 million of funding in 2018-19 (excluding for its National Lottery work). It is almost entirely funded by licence fees paid by gambling operators, as are local licensing activities. Licence fees are set by DCMS through regulations in secondary legislation, which normally happens approximately every four years. The current licence fee model was determined in 2016 and enacted in 2017, and sets fees for each of the 39 specific types of licence and also by the size of each gambling operator based on their gross gambling yield (bets placed less winnings paid out).⁶

⁶ There are 37 types of operator licence (such as online casinos, premises-based bingo or gambling machines) and 2 types of personal licence (covering key management roles and a range of functional roles, particularly where they involve handling cash). The vast majority of licence fee income (96% in 2018-19) comes from operator licences.

Figure 12

Timeline of interventions regarding fixed-odds betting terminals

There were six years between the Gambling Commission (the Commission) advising of the potential for significant harm and legislative changes to reduce stakes limits taking effect



4.12 DCMS and the Commission intend for licence fees to reflect the costs of licensing and regulating the industry. This cost is based on an assessment of the level of risk of each licence type and size of operator, but the way risk is defined can become quickly out of date. The latest fees review was in 2016 and was based on the Commission's best estimates at the time. Both the complexity of the industry and the Commission's understanding of digital technologies have developed since then, particularly regarding online and mobile gambling, which account for 83% of the total number of regulatory fines and settlements in the past five years. However, while the Commission has been able to articulate these increasing challenges, it has not yet fully assessed what impact they have and therefore what the regulatory needs will be going forward.

4.13 The way that gambling regulation is funded does not allow the Commission to change licence fees or otherwise raise additional resource outside of secondary legislation. As changes have typically been a few years apart, they have involved a major fee review. Current legislation means that a new statutory instrument is required each time a change is needed so that extra funding can be raised in specific areas, or overall. The Commission also faces more general constraints in being able to move resources to where they are most needed (for example, in re-deploying staff if they do not have the right skills or expertise).

4.14 These constraints make it more difficult for the Commission to invest in addressing specific skills gaps it has identified, including in crypto-currency and addictive technologies. It has therefore attempted to manage the gaps, for example by using voluntary external expertise on its Digital Advisory Board. However, some of the skills gaps the Commission has identified relate to its ability to regulate many types of gambling. The Commission has not yet explored whether it could do more to reprioritise its work where it identifies a need to do so.

Appendix One

Our audit approach

1 This study examined the extent to which gambling regulation effectively and proportionately protects people from gambling-related harms and addresses emerging risks. It focuses on the role and work of the Gambling Commission (the Commission), but also considers the wider regulatory framework it operates within. In particular, we examined whether the Commission:

- has a good understanding of the problems it is trying to address, and has clearly set out what it is trying to achieve, so it can direct resources effectively (Part Two);
- is both intervening directly and working effectively with others to make gambling safer, based on a good understanding of what works (Part Three); and
- has the powers, capacity and expertise it needs to address emerging risks and respond to social and technological changes (Part Four).

2 While we considered the Commission's overall approach and various objectives as part of this review, our evaluation focuses on its objective to protect children and other vulnerable persons from being harmed or exploited by gambling.⁷ We assessed the Commission against established principles of good regulation as well as other recent work we have done on accountability and reporting in government, for example our 2016 guidance on regulatory performance measurement.⁸

3 We have not examined the merits of government's policy objectives in this area, only the extent to which gambling regulation supports these objectives. We have also not audited non-regulatory interventions by other organisations, such as treatment services for gambling addiction, although we have considered these factors in context.

4 Our audit approach is summarised in **Figure 13** on pages 42 and 43. Our evidence base is described in Appendix Two.

⁷ Some headline figures in our report exclude the National Lottery where appropriate, as the Commission has separate objectives relating to the operation of this.

⁸ National Audit Office, *Performance measurement by regulators*, November 2016

Figure 13

Our audit approach

The objective of government

The Gambling Commission (the Commission) is the statutory regulator of gambling operators that provide gambling in Great Britain. Its overall aim is to ensure gambling is fair and safe, and the statutory objectives of its licensing and regulation include protecting children and other vulnerable persons from being harmed or exploited by gambling. The Commission is sponsored by the Department for Digital, Culture, Media & Sport (DCMS), which seeks to ensure commercial gambling is socially responsible.

How this will be achieved

The Commission regulates gambling operators through a combination of licensing, compliance and enforcement activities. For example, it sets the rules that operators must follow, supervises operators' conduct and enforces penalties or other sanctions where an operator has broken the rules. The Commission also works with a number of other public, private and charitable bodies that seek to make gambling safer, including researchers, educational organisations and treatment providers.

Our study

This study assessed the extent to which gambling regulation effectively and proportionately protects people from gambling-related harms and addresses emerging risks, based on established principles of good regulation. It focused on the role and work of the Commission, but also considered the wider regulatory framework it operates within.

Our evaluative criteria

The Commission has a good understanding of the problems it is trying to address, and is clear about what it is trying to achieve in addressing them.

The Commission intervenes effectively and proportionately to minimise problem gambling, based on a good understanding of what works.

The Commission has the powers, capacity and expertise it needs to address emerging risks and respond to social and technological changes.

Our evidence
(see Appendix Two for details)

- Analysed data, information and research on the scale and nature of problem gambling.
- Interviewed officials from the Commission and its board.
- Reviewed documents provided by the Commission.
- Reviewed online discussion forums.
- Interviewed stakeholders including DCMS, Public Health England, charities, professional bodies and academics.
- Benchmarked against stated good practice or reasonable comparators where available.

- Interviewed officials from the Commission and its board.
- Analysed data and information on enforcement activity and intelligence, including local premises inspections and consumer complaints.
- Interviewed stakeholders including consumer and industry representatives, academics and a range of organisations that work with the Commission.
- Reviewed management information and documents from the Commission.
- Reviewed examples of Commission interventions on a case study basis.
- Benchmarked against stated good practice or reasonable comparators where available.

- Reviewed publicly available information on the social and technological changes taking place within the industry.
- Interviewed officials from the Commission and its board.
- Interviewed stakeholders including industry, officials from DCMS, licensing authorities, charities and relevant government bodies.
- Analysed data and information on the industry, including licence fees, gambling yield and advertising spend.
- Reviewed examples of Commission interventions on a case study basis.

Figure 13 *continued*

Our audit approach

Our conclusions

Gambling-related harm is a serious problem for the individual affected and people close to them. It imposes potentially significant costs on public services and society more widely, although government has a limited understanding of these impacts. The Gambling Commission is a small regulator in a challenging and dynamic industry. To reduce these harms, it has increased its regulatory action (such as penalties on operators that break rules) and its collaboration with others in the field. But there is more it needs to do to identify where problems are occurring and ensure gambling operators raise their standards. The way people gamble is changing, with new risks emerging in online and mobile gambling and other technological developments. The Commission's ability to ensure consumers are protected from these new risks is constrained by factors outside its control, including inflexible funding and a lack of evidence on how developments in the industry affect consumers. The Commission is unlikely to be fully effective in addressing risks and harms to consumers within the current arrangements.

Appendix Two

Our evidence base

1 We reached our independent conclusions on the effectiveness of gambling regulation in protecting people from gambling-related harms by analysing evidence collected between July and November 2019.

2 We applied an analytical framework with evaluative criteria to our analysis, which considered: how the Gambling Commission (the Commission) gathers insights into the key issues consumers face and clearly sets out what it is trying to achieve; whether the Commission's interventions are effective, proportionate and based on an understanding of what works; and the extent to which the Commission has the capacity and capability it needs to address emerging risks in the market. Our analytical framework was based on:

- established principles of good regulation, such as those identified in the 2005 Hampton review;⁹
- standards identified in other published guidance such as the National Audit Office's (NAO's) 2016 guidance on regulatory performance measurement, which illustrates the importance of regulators setting clear objectives and measuring performance against these;¹⁰ and
- evaluative approaches we have developed and used in previous assessments of regulators and regulatory frameworks. Our audit approach is outlined in Appendix One.

3 We conducted several semi-structured interviews with representatives from the Commission (including board members) and the Department for Digital, Culture, Media & Sport (DCMS) to inform our audit. We also met with a range of other organisations to gather perspectives, experiences and evidence across all our study areas. We interviewed representatives from the following organisations:

- Regulatory and enforcement organisations: Advertising Standards Authority; Competition and Markets Authority; Independent Betting Adjudication Service; Leeds City Council.

⁹ National Audit Office, *Hampton Implementation Reviews – Guidance for Review Teams*, March 2008.

¹⁰ National Audit Office, *Performance measurement by regulators*, November 2016.

- Other public and charitable bodies: Citizens Advice; GambleAware; GamCare; Gordon Moody Association; Local Government Association; Young Gamers and Gambling Education Trust; Money and Mental Health Policy Institute; NHS England; Public Health England.
- Industry representative organisations: Bacta; Bingo Association; Gambling Business Group; Industry Group for Responsible Gambling; National Casino Forum; Remote Gambling Association; Senet Group.
- Other stakeholders, including academic experts: Advisory Board for Safer Gambling; Regulus Partners; London School of Economics.

4 To examine whether the Commission has a good understanding of the problems it is trying to address and has clearly set out what it is trying to achieve, we did the following:

- Analysed secondary evidence, including published research reports from the Commission and other organisations on the nature and scale of gambling prevalence among adults and children. When examining the prevalence of gambling harm, we used figures from the Gambling Commission's 2016 gambling participation report and the *Young People and Gambling Survey 2019*, these being the latest full estimates available for each of the groups. Different data and methodologies are used in these reports, reflecting the different nature of the survey populations. In some parts of our report, we have combined the prevalence figures from the two reports to produce an indicative overall estimate. As the 16-year-old age bracket can appear in both surveys, there may be an element of double-counting, but this is likely to be very small compared with the overall uncertainty in the estimates.
- Reviewed online discussion forums (for example, on gambling charity websites) to identify illustrative examples of common issues that consumers report and the types of detriment they experience. We did not seek to validate the testimony of each forum entry, and have based our analysis on what consumers reported to provide a case study example of the consumer perspective.
- Examined published documents and internal management information on the Commission's aims and objectives.
- Reviewed literature and other secondary evidence on the causes and impacts of gambling harm.
- Drew on evidence from our previous report *Tackling problem debt*, particularly comparisons regarding the types of data and evidence regulators have to measure the long-term impacts of consumer harm.¹¹

¹¹ Comptroller and Auditor General, *Tackling problem debt*, Session 2017–2019, HC 1499, National Audit Office, September 2018.

5 To examine how the Commission intervenes in the market, and assess whether this is effective, proportionate and based on what works, we did the following:

- Reviewed published and unpublished Commission documentation relating to its licensing, compliance and enforcement activities. For example, we reviewed the Commission's consultations on regulatory changes since 2015, industry workshops and external communications.
- Undertook primary analysis of Commission data on intelligence submissions, licensing authority inspections, licence revocations, and the number and value of financial penalties.
- Examined as case study examples two changes to the Licence Conditions and Codes of Practice from 2018-19, relating to terms and practices regarding online bonus promotions in the sector and how operators interact with customers. This included using desk research, review of the Commission's documents and interviews with stakeholders (including some written evidence submissions).
- Reviewed Commission management information, including internal governance board meeting minutes and recent Audit and Risk Committee meeting papers. This included documentation relating to how the Commission works and shares information with other organisations to achieve its aims, for example its national strategy to reduce gambling harms and documents relating to ongoing projects with external organisations, and how it measures and reports performance.
- Drew on our past work on other regulators and regulated sectors to identify reasonable comparators. Benchmarked the Commission against comparators where available, or otherwise against defined good-practice criteria with regards to consumer redress, incentivising best practice among regulated firms, and measuring and reporting performance. Drew on knowledge of other regulatory sectors with regards to consumer redress and incentivising best practice among regulated firms. In particular, we used previous NAO studies relating to regulating to protect consumers across different sectors.
- Analysed the Commission's performance information and reporting against established good-practice criteria.

6 To assess whether the Commission has the powers, capacity and expertise it needs to address emerging risks and respond to social and technological changes, we did the following:

- Reviewed secondary information and research from a range of sources on recent social and technological developments in the gambling industry, and in some cases conducted further analysis. This included examining changes in the size and structure of the industry (for example, through analysis of gross gambling yield) and trends in gambling advertising.
- Examined the Commission's funding, including the current gambling licence fee model. This involved analysing licence fee data, and reviewing what restrictions or opportunities the current model places on the regulator. We also compared the funding arrangements with how regulation is funded in some other sectors.
- Examined the Commission's understanding and analysis of its own capability and capacity, particularly regarding digital technologies and online gambling.
- Reviewed legislation relevant to the Commission, to understand what statutory powers it has and how these have changed over time.
- Reviewed the timeliness of a number of recent interventions in the gambling market made in response to developments within the sector, including a case study on the regulatory response to high stakes games on B2 machines (known as fixed-odds betting terminals).
- Reviewed written submissions from stakeholders on the timeliness of the Commission's interventions.

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