

# RESOLVER: PUTTING CONSUMERS FIRST?

The Gambling Commission's adoption of Resolver to address operator complaints is another move to 'put consumers first', but many questions around its set up and legal remit remain unanswered, says **Bahar Alaeddini** of Harris Hagan.

**For some time** the UK Gambling Commission has emphasised to the industry the "importance of putting consumers at the heart of business culture and practice". As part of its own commitment to achieving this, it approached the team behind Resolver to make it available for gambling consumers to use.

Most readers are likely to have heard of Resolver, if only from the recent industry press attention it has attracted. It was first mentioned in the Commission's March 2017 publication *Complaints processes in the gambling industry* a review one year after the introduction of the ADR scheme.

At the time, and as remains the case, the Commission message was very clear; it wanted to see operators striving for excellence in handling consumer complaints and not merely focusing on meeting legal and regulatory requirements. Among other things, during its review the Commission found that the data received from operators on complaints may not be accurate, that complaints processes did not "meet the letter of the requirements" and consumers may need support to make complaints.

From 1 August 2017 gambling consumers are now able to raise complaints against operators via Resolver. What is unclear, at least at the time of writing, is the expectation placed on operators in relation to Resolver.

## What is Resolver?

Resolver, which was founded after an energy provider ignored a complaint, is used across numerous sectors, including energy suppliers, public services, insurance, travel, shops and banks. It is a free online tool to help consumers raise and resolve complaints quickly and

easily. The purpose is faultless and one that should, in principle, be applauded.

Resolver acts as a "one-stop shop" and performs the following functions:

- explains consumer rights in simple terms without legal jargon;
- helps prepare complaints using templates;
- allocates a unique email address with the domain @email.resolver.co.uk for every user;
- records all communications in the same place;
- creates a case file; and
- sets out escalation process.

There are 17 pages of "rights guides" on gambling, including information on

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misleading promotions, promoting to children, unwanted marketing, self-exclusion not being observed, not being notified of changes to terms and conditions and issues withdrawing customer funds.

Plainly, there are benefits to operators actively engaging, and encouraging consumers to use, Resolver. The use of Resolver's templates should make complaints more intelligible. In theory, this ought to make complaints easier, quicker and cheaper to process. I recently used Resolver to complain about Amazon, a company that is notoriously difficult to contact. My complaint was produced and fired off to Amazon within minutes of me filling in a few

simple text and tick boxes. It was very easy and there is now a case file that shows me, at a glance, within how many days Amazon's first line should respond to my complaint before I am able to escalate to someone more senior. Two weeks after submitting my complaint, I am still waiting for a response, but in the meantime I have escalated my complaint to someone more senior within Amazon.

## Is Resolver mandatory?

While the Commission has stated that it expects operators to accept complaints via Resolver, it is not mandatory. To make it mandatory the Commission would need to make it a licence condition, which would be subject to public consultation. In my view, the Commission has not made it sufficiently clear that Resolver is not mandatory and, as a result, created ambiguity around the expectations placed on operators.

## Are operators added automatically?

A recent Resolver news alert stated that operators are being signed-up by Resolver. This appears to be without seeking operators' consent. The news alert states: "[a]dding gambling companies to the Resolver system will be a gradual process. The gambling companies perceived to be the largest were uploaded to the system first, others will be added over the following weeks and months."

On 4 August 2017, 50 operators had been signed-up to Resolver. On 9 August 2017 this had increased to 93 operators, on 16 August 2017 to 102 operators and on 20 August 2017 to 141 operators.

This raises a few interesting questions, including:

1. why are operators being added to Resolver if it is not mandatory;
2. what happens if operators, for whatever reasons, refuse to accept complaints via Resolver;
3. what happens to the data gathered via Resolver; and
4. whether an operator's intellectual property rights (logos) can be used by Resolver without consent.

If an operator is not listed with Resolver, consumers can submit a request to see if Resolver can add them to the service. It is not clear what this entails, but it appears that the higher the consumer demand, the more likely it is an operator will be put at the top of the list to be added!

The Resolver news alert goes on to encourage operators to provide "preferred email addresses to forward complaints to"; "further escalation contacts and the ADR they subscribe to, if possible". The key words are "if possible". Nice to have, but not mandatory since Resolver is not mandatory.

### Escalating complaints to a third party

Currently, there is no way to escalate disputes (unresolved complaints or complaints about the outcome of a gambling transaction) to an operator's ADR provider via Resolver. The Commission has not ruled out integration in the future, but again that would be subject to consultation as Resolver is not mandatory. The Resolver website suggests that cases can be sent to "key ombudsmen and regulators", including the Commission. This is interesting given that the Commission maintains it is "not an ombudsman or complaints service, and [it] will not be able to investigate an individual complaint".

### Privacy policy

Resolver's privacy policy states that in addition to providing the consumer's information to the company it "may also pass this information to the associated regulator / ombudsman". In theory, this means that the Commission may receive anything from the full details of a complaint to operator-specific or sector-specific complaint statistics. A very extreme thought is that the Commission could, in

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Additionally, the privacy policy states that users consent to Resolver "using aggregated anonymised data to monitor the effectiveness of specific companies complaints resolution processes...[which Resolver] may pass [on] to these specific companies in order to allow them to evaluate their complaints handling performance (...)". It is arguably vague on whether Resolver would supply anonymised data – such as statistics on the number of complaints received against online operators – to third parties, such as newspapers or anti-gambling campaign groups.

### Data collection

The Commission's main reasoning behind the use of Resolver appears to relate to its role in data collection, such as the type of issues raised and whether it is ultimately resolved in favour of the consumer or operator. In its March 2017 publication, the Commission mentioned the possibility that it could remove existing reporting requirements and resolve discrepancies in existing data collected through regulatory returns. Of course, this will only work in the long term if:

1. operators sign-up to Resolver or it becomes mandatory; and
2. consumers use it.

Resolver's website states that only companies with more than 50 complaints are included in published datasets.

### Key Resolver statistics

- Launched in 2014
- By the end of 2016, it helped over 600,000 consumers to raise and resolve over £81m worth of issues for free.
- Over 1 million visitors a month.
- Deals with over 60,000 cases a month.
- Expect to help resolve over £400m worth of issues during 2017.
- PPI, flights and packaged bank accounts are the top three most complained about products.

### How is Resolver funded?

Resolver is free to use for both consumers and businesses. There are no hidden charges and no adverts. Resolver also promises not to sell "personal customer data". While Resolver does not use personal data, it does "use trends to help work out how organisations can improve". Too good to be true? Possibly. It depends on who the data is sold to. This is something that we will have to watch this space on.

### Future

It is too soon to comment on the future of Resolver for the industry and whether gambling will become a 'most complained' about product. What is clear is that the Commission believes Resolver plays a pivotal role in putting consumers first and with regard to data collection on complaints. In addition to reviewing Resolver, we recommend operators critically assess their complaints processes and procedures to ensure they are fair and reasonable. In the words of Resolver, "we should treat everyone how we ourselves would want to be treated".

Resolver is undoubtedly an attractive solution for the average consumer. However, as a regulatory lawyer it highlights several important questions. It will be interesting to see if/how the industry responds and whether the Commission publishes more detail, and specifically about Resolver. At least for now, the Commission has remained somewhat vague on the issue.



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