

WORK TO DO: THE 2017 ANNUAL ASSURANCE STATEMENT

Aimed at ensuring the Gambling Commission's largest licensees are pursuing licensing objectives effectively, 44 submitted annual assurance statements for the first time earlier this year. However, it's clear that participants have more work to do if they are to provide full and satisfactory responses next time around, writes **Bahar Alaeddini** of Harris Hagan.

Towards the end of last year, 44 Gambling Commission ("Commission") licensees were chosen to participate in its annual assurance statement ("AAS") pilot, with the first year's submitted in February 2016. Its implementation followed the Commission's publication of its *Strengthening Social Responsibility* consultation response document in February 2015 (Section 9 deals with assurance statements) and its AAS supplementary consultation response document in July 2015.

Anyone involved will know first hand how much time, effort and internal resources were required. The mandatory minimum period of participation is three years, meaning that AASs are here to stay. Six months following implementation and six months before the 2017 AASs are due, this article revisits the requirements and considers some of the recent issues.

Licensing objectives

The licensing objectives established by the Gambling Act 2005 are of fundamental importance to the regulation of gambling, and underpin all of the Commission's work, in that the Commission must aim to pursue and, if appropriate, have regard to the objectives when carrying out any of its functions. Equally, the Commission expects the licensing objectives to:

- be at the heart of every operator's decision-making;
- be embedded within the DNA of the business; and
- always take priority over commercial objectives.

The Board and senior management are expected to be the "spearhead" of these issues and the Commission believes that AASs will improve focus and accountability for:

- the risks to the licensing objectives;
- how the risks are managed;
- where/what improvement is necessary; and
- how the operator intends to improve.

Who has to submit an AAS?

AASs are applicable to all operators with an annual gross gambling yield ("GGY") of £25m or above, generated in reliance on one or more Commission licences. Where there are multiple licensees within a group structure, sharing common governance and control arrangements, a single AAS can be submitted with approval from the Commission.

In reality, the requirement applies to the Commission's largest licensees, across both non-remote and remote sectors, B2Cs and B2Bs, and all types of licensable activities.

What is an AAS?

An AAS is a written report formally approved by an operator's board or a board Committee, which includes its CEO

and/or chairman, and submitted to the Commission. The Commission believes that "the main beneficiary of the statement is the operator itself" as it provides a mechanism by which larger operators, also known as "high-impact operators", assure themselves that they are pursuing licensing objectives effectively.

The AAS, which is a relatively concise self-assessment, is divided into three parts:

Part 1: Core control systems and governance arrangements

Part 2: Actions in the previous 12 months

Part 3: Actions planned for the next 12 months

Full details on content and structure, including a template AAS are set out in the Commission's AAS supplementary consultation response document (July 2015).

Each AAS is expected to have a common thread on crime prevention and social responsibility controls. Operators are expected to explain:

- a. what indicators they use to identify the risk (for example, money laundering);
- b. how they manage the risks by minimising, mitigating or avoiding the risk; and
- c. what steps they are taking to address inherent, identified or emerging risks or risk themes (for example, by performing customer due diligence).

"At-risk" and problem gambling

One of the Commission's key aims is to get operators to focus on identifying at-risk and problem gambling, tackling it and tracking their progress in tackling it. In doing so, the Commission considers that operators will make their businesses "more socially legitimate".

As part of the AAS, the Commission originally expected operators to quantify the proportion or total revenue received as a result of at-risk and problem gambling, and provide a narrative assessment demonstrating the evaluation of progress.

This section was a bone of contention for operators for several reasons, including difficulties posed by quantifying the proportion or total revenue, the duplication of work given the Responsible Gambling Trust's ongoing work in this area, and the restrictions faced by B2Bs who do not have a relationship with customers. The upshot was that most operators provided a response in broad terms.

Why are AASs so important?

Compliance is mandatory and the Commission has stated that it will hold operators to account for what they say in their AAS.

Operators that are supported by good governance, risk management and a high level of compliance, fostering an open and co-operative manner with the Commission, are less likely to present a risk and will therefore attract a lower level of regulatory scrutiny.

Recent update

Since the 2016 AASs were submitted, the Commission has published various consultations, consultation responses, a new version of the licence conditions and codes of practice, and updated guidance on anti-money laundering for casinos. Whilst these recent publications are not the subject of this article, they are absolutely essential reading for all Commission-licensed operators and confirm the Commission's expectations regarding the management of risk.

In July 2016, after a long period of review, Nick Tofiluk, Director of Regulatory Operations at the Commission, wrote to the CEO and head of regulatory compliance of each AAS participant to:

- Invite each operator to AAS workshops, with an expectation that both CEOs and heads of compliance would attend. The content of the workshops will include: providing evaluation on the 2016 AASs, how the information collected is used, 2017

changes, best practice guidance, industry feedback, lessons learned and guidance on answering the question in relation to revenue from at-risk and problem gambling.

- Raise concern that almost all operators did not sufficiently demonstrate that they had taken steps to assess the revenue resulting from at-risk and problem gamblers.
- Request a full written response demonstrating that operators have taken measures to assess revenue from at-risk and

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problem gamblers, reminding operators that failure to provide a satisfactory response by 14 October 2016 will result in regulatory action.

The tone of the Commission's letter was not appreciated by operators. However, the language used in the letter conveyed a message that the Commission feels very strongly about this issue, and expects full and satisfactory responses. Whilst the tone of the letter leaves something to be desired and acknowledging the political sensitivity of this issue, it is difficult to resist the Commission's logic that unless weak areas are identified and quantified, responsible gambling initiatives cannot be targeted and evaluated effectively. It is also helpful and reassuring to note that the workshops will provide guidance on answering the question in relation to revenue from at-risk and problem gambling.

At the time of writing, we understand that:

- The first AAS workshop has taken place and highlighted a general misunderstanding regarding the at-risk and problem gambling section. As a result, the Commission is considering whether to tweak its information request to remove reference to revenue at this stage. This may impact the 14 October 2016 response deadline.

- There is no model answer that the Commission is comparing against.

- The Commission wants operators to evaluate their businesses, as opposed to providing a statement of internal assessment.
- Almost all operators did not provide a satisfactory response in relation to at-risk and problem gambling. Any operators that did provide a satisfactory response did not provide a model answer. Instead, their responses demonstrated that they had taken the first step in recognising and evaluating the issues in relation to their businesses,

without proceeding to consider how they would address them.

- The Commission expects operators to consider ways to make their products more socially responsible.

What next?

Undoubtedly, AAS participants have more work to do. Many believe that they have not been provided with sufficient guidance from the Commission on how to complete the AAS and its expectations. Against this background, all AAS participants should engage constructively with the process and ensure that the workshops are attended by suitably senior executives.



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