

IBAS Response to 'Complaints Processes in the Gambling Industry'

A Review One Year after the Introduction of the Alternative Dispute Resolution (ADR) Scheme

IBAS Welcomes Publication of ADR Review

We welcome the ongoing interest of the Gambling Commission in consumer issues and in ADR services. This report raises a number of interesting questions which we look forward to play a significant role in helping to resolve.

Given the contribution currently made by IBAS to the gambling industry's complaints and disputes procedures (paragraph 5.30 indicates that 93.6% of consumer disputes are handled by IBAS) we feel that it is important to respond to a number of the review's observations. In due course we will provide a more detailed response, setting out how we believe ADR bodies, operators and the Gambling Commission can make meaningful improvements to the existing framework for complaints and disputes.

We agree with the report's primary objectives and see no reason why these would not be shared by consumers and operators. We believe that every reasonable effort should be made to simplify complaints and disputes processes and that the industry, its ADR services and regulators should all strive to play a role in minimising avoidable consumer dissatisfaction.

We are looking forward to more meaningful engagement with GC in the future to improve customer standards in the industry.

Success of IBAS as an ADR Entity

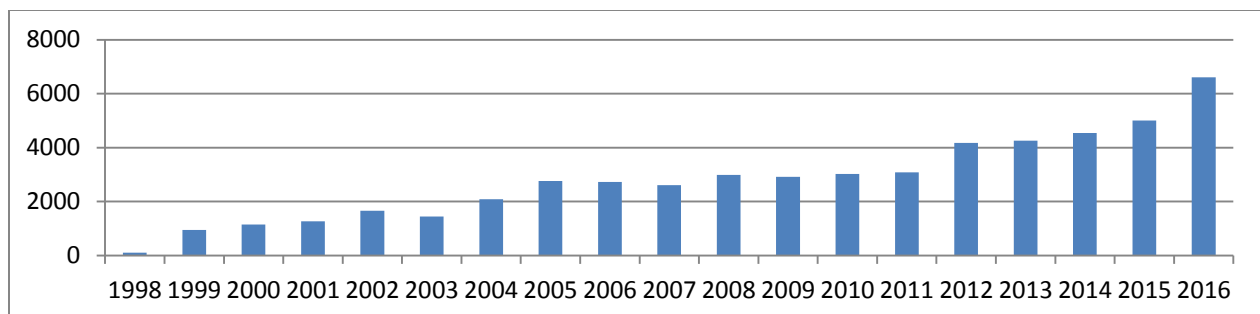
While we recognise that the priority for the Commission was to use the report to highlight areas for potential improvement, we feel that the document published was, in its overall impression, unduly harsh on the services that are already being provided to consumers.

As the report explains that IBAS view the overwhelming majority of consumer disputes with gambling operators, readers would naturally associate some of the concerns or criticisms raised about existing ADR provision with IBAS more than any other approved ADR service.

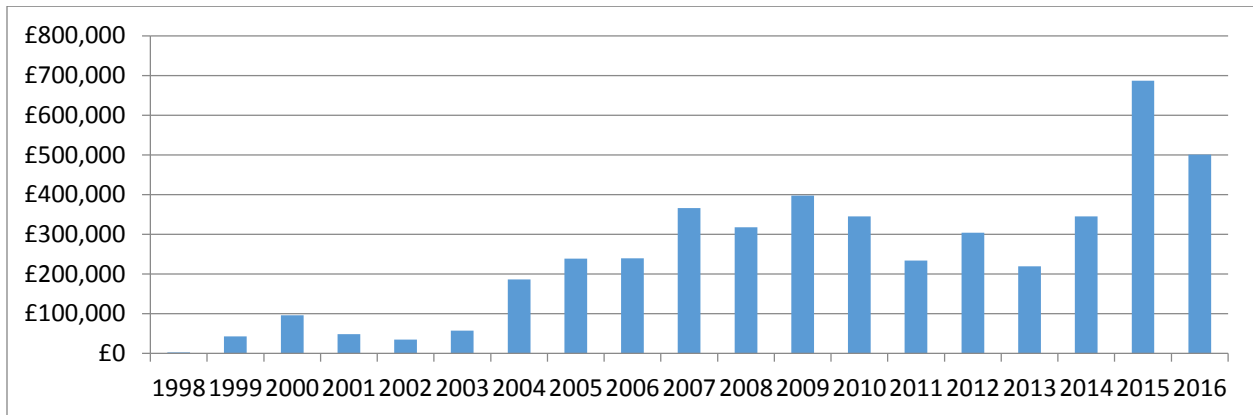
We are disappointed that the report has focused so tightly on shortcomings in the system and offered little consideration of the positives that have been achieved. By way of balance, we are keen to highlight some of the successes of ADR in the gambling sector, illustrated from IBAS's perspective.

- By way of background, IBAS was launched by journalists, recognising a need for such a service for consumers and not meeting any regulatory or legislative obligations to provide one.
- Public demand for the service has grown almost every year since our foundation in 1998.

IBAS: Initial Requests for Dispute Adjudication 1998-2016



- During the course of our existence, funds exceeding £4,750,000 (at 1st June 2017) have been paid to consumers as a result of disputes referred to the IBAS Panel. See below:



- The adherence rate of gambling operators to adverse adjudications is extremely high. With the exception of two operators that surrendered their licences, we are not aware of any operator licensed by the Commission which has refused to comply with the adjudications of the IBAS Panel in the past five years.
- Although we cannot verify figures because of lack of publication of County Court lists and findings, feedback from operators and consumers suggests that very few disputes considered by IBAS progress to a court hearing, perhaps 15-20 cases in the 2015/16 reporting period.
- IBAS has always offered its service free of charge to the consumer and with minimal overheads at an efficient, low cost per dispute to the industry. Based on information in the public domain, we calculated that in 2015 IBAS had delivered adjudications on disputes at an average cost of less than £200 per adjudication, compared to an average of over £500 on final determinations issued by the likes of Ombudsman Service Ltd and the Financial Ombudsman Service.
- Contrary to one of the review's observations, we do provide information on dispute trends and have highlighted areas of concern to the Gambling Commission in various meetings and consultation responses. These include concerns relating to the transparency of cut off times for valid shop bets on horse and greyhound races, the application of the palpable error rule, the transparency of rules relating to maximum payouts, particularly where technology could be used to warn consumers and, more recently, online casino software that could be developed to prevent stakes which contravene the terms of promotional offers and risk consumers finding that at a later stage that they risked their funds without any prospect of being able to withdraw a profit.
- We have also contributed to assist the Competition and Markets Authority (CMA) in its consideration of potentially unfair terms in the sector. As the report does observe, we arrange twice yearly meetings to share these types of concerns with gambling operators, highlighting areas that frequently generate disputes and suggesting steps to avoid them, or alternative terms that might deliver fairer outcomes.

- From the start of 2016, the Gambling Commission asked ADR entities to take on responsibility for considering and adjudicating on the fairness of gambling operators' terms. Previously, if members of our adjudication panel had identified a rule or term that they considered unfair they would typically ask for the dispute or the term to be referred to the operator's regulatory authority. Taking on responsibility for adjudicating on the fairness of terms – including how those terms were advertised – was a significant and technically challenging task, involving a series of training exercises, presentations from lawyers and requiring legal advice. We felt that this was a significant expansion to our remit and one that we were given limited time and assistance to prepare for. In the circumstances, we felt that IBAS had successfully embraced the challenge and were disappointed that the review made only limited mention of this.

ADR Review – IBAS Concerns

There are a number of helpful and positive observations and recommendations contained in the review and we intend to produce a more detailed response at a later date, setting out how we believe these can be best progressed, but we also have a number of immediate concerns about how the review represented the first year of Commission-approved alternative dispute resolution in the sector:

- We were disappointed that IBAS was not visited or asked for observations on any specific aspect of the wider disputes and complaints picture as part of the review. We were also disappointed that despite frequent meetings between IBAS and Gambling Commission officials ever since the Commission was established, a number of the concerns of the Commission about ADR and dispute handling were raised for the first time in this review.
- The report featured a concerning statistic about falling levels of public trust in the licensed gambling industry. We felt that it was unfairly implied that the complaints and disputes procedures in the industry were a contributing factor, when there was no apparent evidence to identify how many of the respondents had ever used a complaints or disputes process. In other words, the possibility that ADR was, in fact, helping to reduce or limit any public loss of trust in the industry was seemingly not considered.
- We agree that the Commission is right to put consumer interests at the heart of its work. While the desire to protect fairness for consumers was the very reason for the foundation of IBAS, we also recognise that there are two sides to every story. In reflecting on ever-growing volumes of complaints and disputes, we feel that the report missed an important opportunity to explore the role of consumer behaviour in the growth of dispute numbers.
- We felt that the review failed to set this growth in dispute and complaints volumes in context with the general growth in complaints in other sectors, such as energy, finance, transport and telecommunications.
- The review reflects on the Commission's role in improving the clarity and transparency of the disputes and complaints processes, but perhaps should extend to examining the importance of providing clear further regulatory direction to operators – which is equally visible to consumers – on various specific aspects of the way that licensed operators conduct their business.

- We agree that ADR has an important role to play in improving standards of fairness and customer service, but we are concerned that too great an emphasis is placed on ADR bodies 'driving' those improvements; there is a vital role too for the Gambling Commission, both in using its regulatory powers to enforce improvements and in issuing clear, prescriptive regulatory advice to consumers and operators, wherever possible, to highlight practices that it considers unfair or unreasonable.
- We believe that some disputes and complaints could be avoided if it was clearly set out that a particular aspect of the conduct of a gambling business (e.g. with respect to self-exclusion schemes or staking restrictions) was in accordance with defined acceptable practice standards set out by the Gambling Commission. This way ADR services and the Gambling Commission can be seen to be driving change together rather than the burden being placed more heavily on ADR.
- We believe that licensed gambling operators provide a service which in some respects is hard to compare to other retail or leisure activities. Betting, in particular, has a uniquely adversarial element. We recognise that many people gamble for purely recreational reasons but for other participants, the returns from betting or systematic gambling account for a significant proportion of their regular income. There are few other commercial contractual arrangements entered into where both parties' ultimate objective is to enrich themselves at the other's expense. That alone means maintaining satisfaction from both parties, including in any dispute process, is quite a challenge. ADR bodies should not be deterred from striving to make the process as effective and transparent as it can be but, to some extent at least, we believe there is a limit to how successful both the industry and ADR bodies providing services to the industry can be at achieving widespread consumer satisfaction.