

## Guidance Duty of care



# Contents

Introduction	3
Concepts relating to the harmful effects of gambling	4
Starting points	4
Review and analyse player profiles	5
Gambling behaviour	5
Gambling pattern	6
Players' contacts with the license holder	7
Other factors to consider in the risk assessment of players	8
Measures within the framework of the duty of care	9
Feedback on gambling behaviour	9
Restrictions and access limitations	10
Following up responsible gambling measures	10
Action plans	11
Closing comments	12

# Introduction

The requirements regarding the duty of care in Chapter 14, Section 1 of the Gambling Act (2018: 1138) apply to all operators with a license to conduct gambling in Sweden. The duty of care means that the license holder must ensure that social and health considerations are observed in the gaming operations. Players must be protected against excessive gambling and be helped to reduce their gambling when there is reason to do so.

The purpose of this guidance is to provide support to license holders in the implementation of the duty of care. The Swedish Gambling Authority has produced the guidance in consultation with the gambling industry, the Swedish Public Health Agency and organizations that offer support to players and their relatives.

It is important that the elements set out in this guidance are actually applied in practice. The license holder must be able to make an overall assessment of the needs of each individual player, and it is therefore also important that the different elements correspond to each other.

The guidance is not exhaustive and does not provide a complete overview of the steps license holders need to take to comply with requirements, but should be seen as an aid to continuous duty of care work.



# Concepts relating to the harmful effects of gambling

The guidance uses the terms excessive gambling, problem gambling and gambling problems to describe the negative harmful effects of gambling, regardless of the extent of the problem. Excessive gambling and problem gambling are used as these are found in the Gambling Act and the Gambling Ordinance (2018: 1475). Gambling problem is the umbrella term used by the Swedish Public Health Agency to describe the negative social, economic and health consequences that gambling can cause.<sup>1</sup>

## Starting points

A starting point for Swedish gambling regulation is that the negative consequences of gambling should be counteracted and that gambling problems should be taken seriously. This is important because the consequences for people who lose control of their gambling can be serious and cause social, health and economic harm. People with a gambling disorder for example, have a higher risk of suicide than others.<sup>2</sup>

License holders need to take various forms of responsible gambling measures to discourage excessive gambling. Some basic measures within the framework of responsible gambling are found in Chapter 14, Sections 2–12 of the Gambling Act and in the Swedish Gambling Authority's regulations. In certain situations, license holders need to take individually tailored measures to fulfil the duty of care. The duty of care described in Chapter 14, Section 1 of the Gambling Act is thus part of responsible gambling. As stated in the provision, the license holder must ensure that social and health considerations are observed in the gambling activities in order to protect players against excessive gambling and help them reduce their gambling when there is reason to do so. The license holder must set out in an action plan how the duty of care will be fulfilled.

Key elements of the duty of care are that the license holder must regularly monitor the players' gambling behaviour, make individual risk assessments, implement the required responsible gambling measures and then follow up on the effectiveness of the implemented measures.

The Swedish Gambling Authority cannot give an exhaustive answer as to which measures can be considered sufficient in each individual case, as the starting point is that the measures taken within the duty of care must be adapted, partly to the license holder's activities and partly to the player's situation. It is important that there are procedures, i.e. pre-determined procedures, which describe how the license holder's duty of care should be carried out. The implementation of the duty of care requires the license holder to have an overall view of its activities, to work systematically and to have the necessary structures in place.

Systematic work with the duty of care means, among others, that the license holder must have established procedures for contact with players in cases where problem gambling is suspected or has been identified. Every responsible gambling measure must be documented (Chapter 11, Sections 1 and 2 of the Gambling Ordinance). In order for license holders to be able to counteract gambling problems, it is important that license holders monitor the development of players' gambling behaviour and take measures to counteract gambling problems.<sup>3</sup> The mapping of players' gambling behaviour in order to assess their gambling risk is the basis for various measures that license holders must take if a player exhibits a gambling behaviour that is deemed to be problematic.

Below is a review of key elements of the duty of care. First, the elements that are important in assessing the risk of players are described. This is followed by a description of measures that can be applied within the context of the duty of care. At the end of the guidance, the significance of the action plans will be highlighted.

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<sup>1</sup> Folkhälsomyndigheten. (18 februari 2021). Problem med spel om pengar - vi reder ut begreppen. <https://www.folkhalsomyndigheten.se/publicerat-material/publikationsarkiv/p/problem-med-spel-om-pengar-vi-reder-ut-begreppen/>

<sup>2</sup> Karlsson, A., & Hakansson, A. (2018). Gambling disorder, increased mortality, suicidality, and associated comorbidity: A longitudinal nationwide register study. *J Behav Addict*, 1-9. doi:10.1556/2006.7.2018.112.

<sup>3</sup> Government bill 2017/18:220, p. 179.

## Review and analyse player profiles

The duty of care presupposes a risk assessment of the players. By reviewing and analysing player profiles, it is possible for the license holder to make risk assessments of its customers and take individually tailored responsible gambling measures. Generally accepted definitions of terms in the field of problem gambling have been developed by the Swedish Public Health Agency.<sup>4</sup> These can be used by license holders in their risk assessment work.

## Gambling behaviour

The license holder must counteract excessive gambling through continuous monitoring of gambling behaviour. Whether gambling can be considered excessive should be determined taking into account indicators that follow changes in, among others, the player's set limits on deposits, loss limits, login time and changes in gambling behaviour, etc.<sup>5</sup>

Identifying signs of excessive gambling is a prerequisite for the license holder to be able to assess when there are grounds for taking action to help a player reduce

their gambling. The Swedish Gambling Authority is aware that license holders who are exempt from the requirement to register players under Chapter 12, Section 1 of the Gambling Act have fewer indicators available to identify excessive gambling than the license holders who register their players. However, there are indicators in the gambling pattern and in contact with players that can also be used for forms of gambling exempted from the registration requirement. The following are indicators that can be used to identify excessive gambling and that license holders should take into account when assessing a player's risk.

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<sup>4</sup> The Swedish Public Health Agency. (18 February 2021). Problem med spel om pengar - vi reder ut begreppen. <https://www.folkhalsomyndigheten.se/publicerat-material/publikationsarkiv/p/problem-med-spel-om-pengar-vi-reder-ut-begreppen/>  
The Swedish Public Health Agency. (21 February 2021). Mäta och upptäcka spelproblem. <https://www.folkhalsomyndigheten.se/spelprevention/material-och-stod/mata-och-upptacka-spelproblem/>

<sup>5</sup> Government bill. 2017/18:220, p. 322.



## Gambling pattern

Gambling patterns are part of a player's gambling behaviour and refers to how the player behaves when gambling, i.e. what pattern the gambling shows. There is research that has followed different combinations of gambling behaviour indicators, such as time/occasion of gambling, to determine which best predicts or catches problem gambling at an early stage.<sup>6</sup> Each license holder needs to determine which indicators are relevant to monitor in their operations.

Examples of indicators that may be signs of excessive gambling:

- Active gambling time: Long gambling sessions can be a sign of high engagement with the game. If gambling occurs several times a week, it may be an indicator of excessive gambling. Another factor to consider is the time of day when gambling takes place. Night-time gambling can be a sign of high risk gambling. An example of how it is possible to estimate what is reasonable time to spend on recreational gambling is to assume that many people sleep eight hours a day, are employed eight hours a day and need time for household chores.
- Chasing losses: When a player repeatedly makes new bets and deposits in the game after losing money.
- Type of game: Forms of gambling where there is a short time between bet and outcome and where it is possible to bet on the same game again pose a greater risk of suffering from gambling problems. Casino games, live betting and slot machines are examples of such forms of gambling.

Examples of indicators that may be signs of excessive gambling and that can be monitored by license holders who register their players:

- Raising deposit limits: Raising your deposit limit can be a sign that the player is playing for more than they originally intended. If a license holder allows high deposit limits (higher than SEK 10,000 per month), it is important to pay special attention to other indicators in relation to these players as they are not caught by reaching their limit or needing to raise their limit.

- Interrupted withdrawals: A series of interrupted withdrawals can be an indicator that a player is not in full control over their gambling. If this happens repeatedly, it may be a sign that the player is trying to win more instead of waiting for the withdrawal to go through.
- Deposit denials: If a player's deposits are denied, it can be an indicator of risky or problem gambling. Deposit denials can be caused by the player not having funds or the payment provider imposing restrictions.

According to the Swedish Gambling Authority's regulation on responsible gambling, license holders for certain defined forms of gambling must submit information to the Swedish Gambling Authority every six months with an aggregated picture of specific gambling behaviour.<sup>7</sup> These indicators are part of what constitutes the gambling pattern and thus the Swedish Gambling Authority assumes that the indicators are also monitored by the license holders themselves.

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<sup>6</sup> Auer, M., Reiestad, S.H. & Griffiths. (2020) M.D. Global Limit Setting as a Responsible Gambling Tool: What Do Players Think ?. *Int J Ment Health Addiction* 18, 14–26. <https://doi.org/10.1007/s11469-018-9892-x>

Finkenwirth, S., MacDonald, K., Deng, X., Lesch, T. & Clark, L. (2020) Using machine learning to predict self-exclusion status in online gamblers on the Play-Now.com platform in British Columbia, *International Gambling Studies*, DOI: 10.1080/14459795.2020.1832132

Kahlil S. Philander (2014) Identifying high-risk online gamblers: a comparison of data mining procedures, *International Gambling Studies*, 14:1, 53-63, DOI:10.1080/14459795.2013.841721

Haefeli, J., Lischer, S. & Haeusler, J. (2015) Communicationbased early detection of gambling-related problems in online gambling, *International Gambling Studies*, 15:1, 23-38, DOI: 10.1080/14459795.2014.980297.

Muggleton, N., Parpart, P., Newall, P., Leake, D., Gathergood, J., Stewart, N. (2021) the association between gambling and financial, social and health outcomes in big financial data, *Nature human behavior*.

<sup>7</sup> Sections 21 and 22 of the Swedish Lottery Inspectorate's regulations and general guidelines (LIFS 2018: 2) on responsible gambling.

## Players' contacts with the license holder

In addition to monitoring the players' gambling patterns, the license holder should also monitor the players' communication and behaviour when interacting with the license holder to identify excessive gambling. The license holder should therefore identify the indications of excessive gambling that can be inferred from contacts with the players. Physical conversations, phone calls, emails, letters and chats are examples of channels where the license holder has the ability to discern the behaviour of players. How this is expressed varies depending on the licensee's activities. Knowledge of indicators and risk factors for problem gambling should be included in the training that employees of the licensee are required to receive. The training should include, inter alia, elements that may be helpful in identifying problem gambling.<sup>8</sup>

For the license holders who are exempt from the requirement for registration and who provide games via physical meetings<sup>9</sup>, the duty of care can be practised in contacts with players.

Examples of behavioural indications for problem gambling:

- The player expresses that he/she needs to win back lost money.
- Agitated or threatening behaviour towards the license holder's staff.
- The player expresses that his/her financial room for manoeuvre is small. Among other things, this may include that the player expresses that he/she cannot afford everyday expenses. If the player expresses that he/she has borrowed money to play or cannot afford to pay for food and rent, it is a strong indication that the player is gambling beyond their assets.

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<sup>8</sup> Chapter 14, Section 14 of the Gambling Act and Section 4 of LIFS 2018: 2.

<sup>9</sup> Bingo, land-based commercial games and lotteries not provided online

## Other factors to consider in the risk assessment of players

Below are examples of factors that pose an increased risk of developing problem gambling and that license holders can be aware of in preventing excessive gambling.

- Previous self-exclusion : The Swedish Gambling Authority wants to emphasize that previous gambling problems<sup>10</sup> are a risk factor for developing gambling problems. As part of protecting players from excessive gambling, it is important that players who have previously excluded themselves from the license holder are followed up particularly closely.
- The player's age: Starting to play at a young age increases the risk of developing excessive gambling.<sup>11</sup> The Swedish Gambling Authority therefore believes that young players, 18-24 years old, are a group that deserves extra protection.

More information about risk factors for gambling problems can be found on the Swedish Public Health Agency's website [www.spelprevention.se](http://www.spelprevention.se).

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<sup>10</sup> Swedish Public Health Agency (25 February 2021). Risk och skyddsfaktorer för spelproblem. <https://www.folkhalsomyndigheten.se/spelprevention/om-spelproblem/risk--och-skyddsfaktorer/>

<sup>11</sup> Swedish Public Health Agency (25 February 2021). Risk och skyddsfaktorer för spelproblem <https://www.folkhalsomyndigheten.se/spelprevention/om-spelproblem/risk--och-skyddsfaktorer/>





## Measures within the framework of the duty of care

By continuously monitoring a player's behaviour, it is possible to pick up signals of risky gambling and take action in good time. As mentioned earlier, license holders must take individualized responsible gambling measures when players show signs of excessive gambling. Feedback on the player's gambling behaviour is a responsible gambling measure that the legislator has specified within the framework of the duty of care. Other important and specific measures are the application of restrictions and access restrictions.<sup>12</sup> Feedback on gambling behaviour as well as restrictions and access restrictions should be applied at an early stage and not when gambling has already caused the player harm.<sup>13</sup>

## Feedback on gambling behaviour

Feedback on gambling behaviour needs to take place when the license holder has identified signs of high risk gambling by a customer in their risk assessment. In both a land-based gambling environment and online, for example, there may be reason to contact a player who has had a long gambling session with the license holder or if the player has a pattern of behaviour

that gives the license holder reason to make contact to find out more about the person's gambling situation.

License holders (who are subject to the requirement for a deposit limit) must contact players to fulfil their duty of care when players raise a limit or specify a deposit limit higher than SEK 10,000 per month.<sup>14</sup> The Swedish Gambling Authority considers it important that the license holder designs the contact in a way that invites reflection based on the increased risk that the raised deposit limit entails. To comply with the provision, it is not sufficient for the license holder to use pop-up messages as the only contact measure. In addition to pop-up messages, for example, e-mail or telephone contact with a player is a necessary measure when a deposit limit is raised or when a deposit limit higher than SEK 10,000 per month is set.<sup>15</sup> A contact must thus take place in a way that enables the player to respond. The license holder decides which method is appropriate based on their operations.

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<sup>12</sup> Government bill. 2017/18:220, p. 148.

<sup>13</sup> SOU 2017:30, Part 1 p. 608.

<sup>14</sup> Chapter 11, Section 5 of the Gambling Ordinance.

<sup>15</sup> See the Court of Appeal in Jönköping's judgment in case 3745-19.



## Restrictions and access limitations

The license holder may need to apply restrictions and access limitations to protect players from excessive gambling. An example of a restriction could be to exclude people with suspected or established problem gambling from marketing mailings. Another example of a restriction may be to limit a player's deposit limit or to limit the player's gambling time. Access limitations refer to measures where the player is not allowed access to the license holder's games.

For problem gamblers, abstaining from gambling and getting guidance on how to treat gambling problems is key.<sup>16</sup> Players who show multiple signs of excessive gambling and inability to reduce their gambling should be suspended from the license holder's gambling. Depending on the severity of the indicators detected in the player, restrictions and access limitations may need to be applied immediately. In such situations, it is helpful for the player if the license holder also refers the player to support efforts to get help with their gambling.

The following are some examples of situations where restrictions and access limitations may be appropriate measures to protect customers from adverse effects:

- If a player shows signs of problem gambling. This may be relevant in order for the license holder to have time to gather additional information about the gambling and then make an overall assessment of the player's situation.
- If a player who shows signs of problem gambling does not comply or reduce his/her gambling after the license holder has made a responsible gambling contact.
- If there are signs that the gambling is not proportionate to the player's finances, for example if it appears that the player is gambling with borrowed money.



## Following up responsible gambling measures

Follow-up is important to determine whether the responsible gambling measures taken have had an impact. If a license holder at a follow-up check sees that the previous measures have not been sufficient to protect the player, further measures should be taken. Through an overall assessment of the customer's gambling behaviour and previous responsible gambling measures taken, the license holder can determine what measures are appropriate to take. For example, if a customer does not respond to contact from the license holder, the license holder should take some other type of action until the desired effect is achieved.

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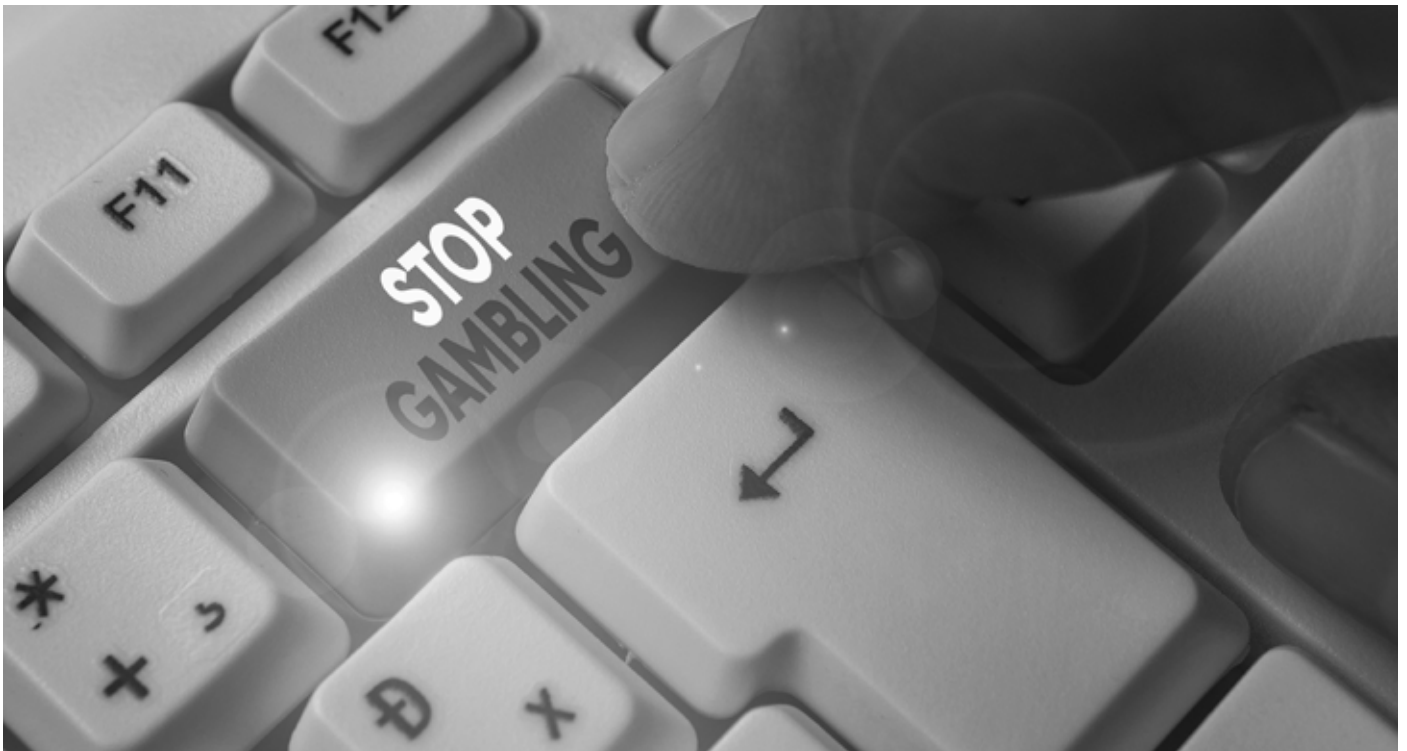
<sup>16</sup> Government bill. 2017/18:220 p.149.

## Action plans

The license holder must set out in an action plan how the duty of care will be fulfilled. The action plan should be adapted based on the customer segment and the products provided by the license holder and provide directives on the measures to be taken in different situations. The purpose of an action plan is to ensure that the personnel concerned know how they are expected to act to fulfil the duty of care. The Swedish Gambling Authority considers that the action plan regarding duty of care should function as an internal procedure that is relevant for both gambling agents and staff at gambling venues for casino games.

As previously mentioned, the license holder is required by law to track gambling patterns and the players' interaction with the license holder in order to be able to intervene and prevent excessive gambling. The license holder should therefore identify indicators of excessive

gambling that can be detected during contacts with players. These indicators should then be included in the action plan and linked to a description of the measures that should be taken. Examples of measures can be that the license holder contacts the player, but also that they eventually impose restrictions and access limitations. An action plan should be a living document that is continuously updated and disseminated throughout the organisation. The action plan can advantageously be linked to other procedures and guidelines in the operations (for example procedures for marketing mailings) to ensure that the work with the duty of care becomes a natural part of the gambling business. The license holder may need to change their procedures and guidelines based on changed circumstances. A well-established action plan is helpful in fulfilling the duty of care.



## Closing comments

The duty of care requirement can be summarised as requiring the license holder to use its accumulated knowledge of the player's gambling behaviour and profile to protect the player from excessive gambling. The license holders' efforts to ensure social and health considerations are therefore not a one-off effort but something that needs to permeate the business. The various parts that the Swedish Gambling Authority has described above are all essential for protecting players against excessive gambling. As mentioned above however, it is not an exhaustive description of how the license holders must fulfil the duty of care. It is the license holders' responsibility to determine which indicators of excessive gambling are relevant to use in their gambling operations and the type of responsible gambling measures that are effective in protecting players.



