



The Betfred Judgment – Key Lessons

In April 2021 the High Court granted summary judgment in favour of Mr Green, a customer claiming £1.7 million in winnings following gameplay on one of Betfred's products. Betfred argued that they were not obliged to pay Mr Green because the winnings arose from a game defect, and their terms and conditions excluded their liability to him in those circumstances.

Betfred lost on each attempt to rely on its contractual exclusions and Mr Green recovered his game winnings in full plus interest and costs against Betfred.

The court found that:

- the exclusion clauses were inadequately worded because they were unclear and didn't fit the particular circumstances;
- the way the clauses were presented and the failure to properly signpost them to Mr Green meant they weren't incorporated into the contract between Betfred and Mr Green; and
- even if the clauses were worded adequately and had been incorporated into the contract, they weren't transparent or fair so Betfred would not have been entitled to rely on them.

The judgment is a clear reminder of the critical importance of transparent drafting, clear presentation, and signposting of consumer terms and conditions. Simply put, if any of these factors are deficient, businesses cannot confidently expect to rely on and enforce their terms and conditions against customers when things go wrong.

There are a number of key lessons to be drawn from the judgment, and these apply to all businesses dealing directly with consumers, not only those in the betting and gaming space.

Firstly, terms and conditions must be in plain English and be understandable to the average consumer.

When seeking to exclude liability, using vague 'catch-all' language won't work. Drafting needs to be specific, so that its meaning is clear and unambiguous.

Exclusions of liability and other potentially powerful or detrimental terms need to be clearly signposted to consumers if they're to stand a chance of being enforceable. Signposting means taking additional steps to highlight certain terms to the consumer in a timely way, for example by using summary sections or pop-up notices.

Finally, presentation is important, so terms and conditions need to be organised, formatted well, and generally easy to read and navigate.