

## **HM Government – Supplementary written evidence (GAM0135)**

*Ministers for the Department for Digital, Culture, Media and Sport, the Department for Education, and the Department of Health and Social Care were due to appear before the Committee on 17th March 2020. This session was cancelled and the government has been asked to provide a written response to the Committee's questions. This document gives a short overview of the government's approach to minimising gambling-related harms before setting out our response to each of the Committee's questions.*

Millions of people enjoy gambling without experiencing problems, but it does carry risks. It is important that the freedom to enjoy gambling as a leisure activity is balanced against the need to protect the vulnerable. That is why gambling is licensed and regulated by the Gambling Commission, an independent statutory regulator. The Commission has broad powers to keep gambling fair, open, and crime free, while ensuring that there are protections in place for children and vulnerable people.

Rates of problem gambling have been steady at below 1% for twenty years and the government continues to work hard to reduce gambling harms. Since the beginning of 2019 we have strengthened protections by legislating to cut the maximum stake on B2 gaming machines from £100 to £2, and the Gambling Commission has tightened the rules on the age and identity checks operators must do before allowing someone to gamble, banned gambling on credit cards, and made it mandatory for online operators to be signed up to GAMSTOP (the national online self-exclusion scheme). We also committed in our manifesto to review the Gambling Act 2005 to make sure it is fit for the digital age. Further details will be announced in due course but this committee's report will undoubtedly be an important point of reference in that process.

Alongside these regulatory measures, the government is committed to making sure those who do experience problems with their gambling are able to access the help they need, and that young people are supported to properly understand the risks of gambling.

Significant steps have been taken in the health and care system to support those needing treatment. As announced in the NHS Long-Term Plan, we have introduced specialist clinics to expand geographical coverage of NHS services for people with serious gambling problems. Up to 15 clinics will open throughout the country by 2023/24, including the now open children and young person's service operating out of the national problem gambling clinic in London. We also know that for some people gambling addiction can create a cycle of debt that can impact on mental health and wellbeing and in extreme cases may lead to thoughts of suicide. The government committed to addressing suicide risk and gambling in the latest progress report on the National Suicide Prevention Strategy and the Cross-Government Suicide Prevention Workplan (both published in January 2019), and we will continue work to improve our understanding of the link between suicide and gambling.

We are also ensuring that there is a strong research and evidence base to inform our wider policies. Public Health England are producing an independent evidence

review on gambling harms, and the National Institute of Health Research has commissioned a review of the effectiveness of policies and interventions to reduce gambling-related harms. Both reviews were due to report this year but Public Health England's resources have been impacted by Covid 19 and their timeline for publication has shifted as a result. They hope to publish later in 2020 or early 2021.

Protecting children from gambling-related harm is a priority for the government. No young person should face the challenges of a gambling addiction alone and we want to ensure that schools are able to support young people in making positive choices in their lives.

However, while education has an important role to play in equipping young people to understand the risks of gambling, it is not the sole answer and it is helpful to see the breadth of expert advice and evidence that the committee has sought as part of this inquiry, particularly from those directly affected. The government appreciates that there is a need to develop the evidence base of what works to reduce gambling-related harms amongst children.

Schools already teach a broad and balanced curriculum to prepare pupils for adult life. The national curriculum provides a gold standard with Computing and Maths developing relevant foundational knowledge such as teaching about online safety. The Citizenship curriculum also covers financial education, which addresses debt. The government wants to ensure all pupils know how to manage their academic, personal and social lives in a positive way. Good education and excellent teaching in these areas helps to develop young people's decision-making capacity.

From September 2020 we are making Health Education compulsory in all state-funded schools in England, alongside making Relationships Education (in all primary schools) and Relationships and Sex Education (in all secondary schools) compulsory. This means that for the first time, from September, teaching young people about the risks relating to online gambling will be a requirement for all secondary-aged pupils. To support schools, the government is investing in a central package to help all schools to deliver these subjects. We are currently developing a new online service featuring training materials, case studies and support to access curriculum resources. The government is pleased that these online modules will also include how teachers teach about the risks related to online gambling.

The impact of Covid 19 and the measures necessary to curb the spread of the virus have brought significant changes in recent months, including to the gambling sector. All betting shops, casinos and other land-based betting establishments – which accounted for approximately 50% of all non-lottery gross gambling yield last year – are now closed, and the cancellation of major sporting fixtures has significantly limited the market for online betting (a further 20% of non-lottery gross gambling yield last year). Indicative data suggests that while fewer people are gambling and overall gambling spend is down, some people have shifted to online gaming, or are trying previously unused products. The government is acutely aware of concerns around this shift and the risk that the anxiety and isolation some people are experiencing as a result of the virus and social distancing may make them more vulnerable to gambling-related harms.

The government has taken a proactive approach. The Minister for Sport, Tourism and Heritage has written to operators to make clear that they must act responsibly during this time and to seek specific player protection measures. He is in regular contact with industry leaders, trade bodies and treatment providers to ensure we have an accurate understanding of the gambling landscape at this time of potentially heightened risks. The Gambling Commission has also instructed operators to step up their monitoring of player activities to identify signs that a customer may be at risk of harm, and the Advertising Standards Authority has written on the importance of complying with the existing advertising codes and not exploiting the situation. We are monitoring the situation closely, will hold operators to account for any failures, and will not hesitate to take further action if that becomes necessary.

We look forward to reading the committee's report and will consider its findings and recommendations carefully.

- 1. There is growing consensus that disordered gambling should be treated as a public health issue, and that responsibility for gambling should be transferred from the DCMS to the DHSC. Does the Government consider disordered gambling to be a public health issue? If so, why is the Government reluctant to transfer responsibility to DHSC?*

The Department for Digital, Culture, Media and Sport is the lead department for a range of creative industries and leisure activities, including gambling, but tackling problem gambling is a cross-government issue and requires a number of government departments to work together. The Department for Digital, Culture, Media and Sport is responsible for industry regulation, which is a key aspect of harm prevention. The Department for Education looks at where information about the risks of gambling can be given to pupils in schools. The Home Office leads on any matters to do with gambling-related crime, and the Treasury sets and monitors gambling duties. Problem gambling is indeed a health issue, which is why the Department of Health and Social Care leads on providing access to NHS treatment and advice, and developing the research and evidence base.

This is also how services work at a local level. For example, the Northern Gambling Clinic works closely with a range of people and organisations including GPs, local councils, NHS trusts, national and local charities, Citizens' Advice, the criminal justice system, debt agencies, substance misuse services and homeless agencies. We need to mirror that approach at a national level.

The Department for Digital, Culture, Media and Sport and the Department of Health and Social Care co-chair a quarterly cross-government and third sector official-level steering group to coordinate and share activities on research, education and treatment. In order to strengthen cross-government working further, we have undertaken to publish a UK-wide cross-government addiction strategy to include problem gambling. The scope of the strategy is being considered and we will have more to say on this in due course.

2. *The NHS has opened gambling clinics in Leeds, Manchester and Sunderland, and committed to opening a total of 14 new clinics by 2023/24. What do you believe to be the respective roles of the NHS and charities in providing accessible and effective treatment for disordered gambling? How will these new clinics enhance and compliment the treatment services already available?*

Evidence given to this committee by GambleAware, GamCare, the Gordon Moody Association, YGAM and others, has outlined the considerable work contributed by the third sector to the prevention and treatment of gambling-related harms. The charity sector plays an important role providing care and support in society. The NHS has a long and established history of working with voluntary organisations; they are vital.

The NHS clinics are funded by NHS England and part of a wider gambling treatment pathway, which is commissioned by GambleAware and provided by GamCare. GamCare provides advice through a national helpline, and face-to-face support where needed. This has allowed the NHS to focus on delivering treatment and service to those in most need and to manage the most complex cases.

The NHS will continue to work with the charity sector going forward, as it opens more clinics to meet its NHS long-term plan commitment of up to 15 specialist clinics. What is important is that the NHS and charity sector work together, learning and sharing information to make the best use of resources and to realise the benefits of delivering aligned and complementary services.

3. *The UK Government is planning on reviewing the Gambling Act 2005. When will this review take place and what will be its scope? Will the review reconsider the underlying regulatory approach to gambling introduced by the 2005 Act?*

The government has committed to review the Gambling Act 2005 to make sure it is fit for the digital age. We will announce further details in due course, including on the scope of the Review. We will ensure everyone has a chance to contribute their views, and particularly look forward to the findings from this committee.

4. *When the Gambling Act 2005 came into force in 2007, few could have foreseen the scale of future growth in online gambling. How will you ensure that any legislative or regulatory changes will be sufficiently flexible to deal with future developments in online gambling and rapid developments in the technology underpinning online gambling?*

It is true that, like many aspects of daily life, gambling is increasingly an online activity. 21% of people gambled online in 2019, a rise of 6% since 2015.<sup>1</sup> As Sir Alan Budd noted in his evidence to this committee, it would have been difficult to foresee the nature of these changes. However, the Act gives very broad powers to the regulator to impose whatever licence conditions are needed to keep gambling fair and open, free from crime, and to protect children and vulnerable people.

In order to deal with the growth of online gambling, the Act was amended in 2014. The Gambling Commission's broad powers now apply equally to online gambling as to any other form of commercial gambling. The Secretary of State may also impose conditions on licences through secondary legislation if necessary.

Until 2014 operators based offshore were not regulated by the Gambling Commission, but the Gambling (Licensing and Advertising) Act 2014 amended the 2005 Act so that all operators serving customers in Great Britain must abide by the licence conditions and codes of practice set by the Commission. This was an immensely important step in protecting people who gamble in this country.

Before then, much online gambling by British customers was regulated by the country in which the operator was based rather than by the Gambling Commission. There has undoubtedly been a rise in online gambling; the gross gambling yield from this sector (amount staked minus winnings paid out) grew 18% between 2015/16 – the first year for which we have full figures – and 2018/19, or from £4.5 bn to £5.3 bn. However, much of this represents a channel shift from land-based to online gambling: gross gambling yield from commercial gambling (i.e. excluding the National Lottery and society lotteries) grew just 4% in that period, from £10.3 to £10.7bn.<sup>2</sup> We have not seen overall participation rates rise as online gambling has become more popular. Past month participation has remained broadly stable at between 45-48% for the past five years. Problem gambling rates have also remained stable at below 1% over the same period, as they have done for twenty years.

As the Chair and CEO of the Gambling Commission explained in their appearance before your committee, the Commission's broad and flexible powers allow it to adapt regulation relatively quickly to respond to market and technological developments. For example, using credit cards to gamble online has recently been banned via a change to the licence conditions and codes of practice without the need for the government to legislate. Neil McArthur, the CEO, was also clear

---

<sup>1</sup> Gambling Commission, Gambling participation in 2019: behaviour, awareness and attitudes, February 2019.

<sup>2</sup> National Audit Office, Gambling Regulation: problem gambling and protecting vulnerable people, February 2020. Figures adjusted for inflation by the National Audit Office.

in his evidence to the committee that the current legislation does not prevent the Commission doing what it considers necessary to meet its aims.

The government has committed to review the Gambling Act 2005 in recognition of the changes that have occurred since the Act came into force, and in the expectation that this evolution will continue. The review will be an opportunity to further future-proof regulation. Flexibility and the ability to respond to change will continue to be essential to regulation of gambling in this country.



5. *The National Audit Office has stated that "gambling regulation lags behind the industry" and recommended that the Government should review the way the Gambling Commission is funded. What are the Government's views? And what steps will you take to ensure that the Gambling Commission has the expertise and resources to keep up with the gambling industry's constant technological developments?*

The government welcomes the report by the National Audit Office and is considering its recommendations carefully. The Department for Digital, Culture, Media and Sport is working with the Gambling Commission to make sure its funding continues to enable it to properly regulate the industry and to respond to new areas of risk effectively.

The Gambling Commission is funded by licence fees paid by operators. Fees are set at a level whereby the Commission can reasonably recover the cost of regulating the market in accordance with its statutory functions. The Gambling Act 2005 gives power to the Secretary of State to set the fees requirement through secondary legislation. In April 2017, the fees system was changed to calculate fees based on gross gambling yield for all gambling operators (rather than for online only) following proposals submitted by the Gambling Commission to the Secretary of State. Fees are set to recover the cost of regulation from operators proportionately according to risk. We see this as the correct approach as it is right that industry should bear the costs of regulation rather than the taxpayer.

The Commission can, and does, call on expertise from within the industry itself to help find the most effective solutions to technological challenges. For example, it tasked a working group of senior industry leaders with creating an industry code for responsible product and game design that will set out how the gambling industry can produce safer products in the future. It can also call on industry expertise to find ways to harness technology to increase protections, as it did when it issued a challenge to industry to find ways of using advertising technology to reduce the amount of gambling advertising seen by children, young and vulnerable people. Industry has proved willing to offer its time and expertise in response to Gambling Commission requests but the Gambling Commission has the power to compel unwilling operators to do so, and to enforce improvements where it is dissatisfied.

Beyond industry, the Gambling Commission can call on its Digital Advisory Panel of experienced experts drawn from the fields of technology, gambling and social media. The panel was established to advise the Commission on emerging trends that may impact the gambling market, operators and customers. It also works closely with regulators of other jurisdictions to share learnings and best practice, for instance on issues of criminality and in emerging risk areas like the convergence between video games and gambling.

6. *The Committee has heard from those with lived experience of gambling-related harms that the Gambling Commission offers "no support, no feedback and no help" to individuals in dispute with operators. What are your views on the suggestion that an ombudsman should be established to deal with individual complaints?*

It is a licence condition that operators must nominate a Gambling Commission approved provider of alternative dispute resolution services that they will work with. Operators must signpost customers dissatisfied with the outcome of their complaint through the operator's in-house procedures to their nominated alternative dispute resolution provider. These services are provided free of charge to customers, and their rulings are binding on operators in cases with a value below £10,000. However, alternative dispute resolution providers are not generally able to accept and rule on cases that relate to an operator's failings against the social responsibility code or licence conditions set by the Gambling Commission, as these fall within the remit of the Gambling Commission's role as regulator. The Independent Betting Adjudication Service, the alternative dispute resolution provider that deals with the largest number of disputes involving gambling operators, had 5,235 disputes referred to it in the year to September 2019. It refused to accept 684 of those cases because it considered them matters of regulation.<sup>3</sup>

However, the Gambling Commission's regulatory activities provide important and significant protections for individuals against operators. While the Commission does not typically involve itself in individual disputes, it does take a regulatory approach with clear expectations placed on all operators and firm action against those that breach the conditions of their licence, including in relation to their interaction with individual customers. For example, it was announced in March 2020 that an operator had agreed to pay an £11.6m regulatory settlement in lieu of a fine for social responsibility and money laundering failures. A large proportion of this money will be returned to victims of crimes that had been committed to fund gambling.

The National Audit Office has recommended that the government consider reviewing the effectiveness of existing mechanisms for individual redress, and we are considering this recommendation carefully.

---

<sup>3</sup> Comparative Annual Statistics Reporting 2017-2019, Independent Betting Adjudication Service, September 2019

7. *The Children Commissioner recommended that the Government should take immediate action to amend the definition of gaming in the Gambling Act to regulate loot boxes as gambling. Do you believe that products such as loot boxes, player packs and skins should be regulated by the Gambling Commission?*

Skins gambling is already regulated under the current legislation. There are currently no licensed gambling operators who offer skins gambling. Any unlicensed operators offering skins gambling to British consumers can be prosecuted for illegally offering gambling services. In 2017 the Commission prosecuted the operators of *FutGalaxy* for offering unlicensed skin gambling to children, becoming the first gambling regulator in the world to do so, and it continues to monitor this area closely.

Regarding loot boxes – and player packs, which are a form of loot box – we announced in the Queen’s Speech in December 2019 our intention to review the Gambling Act 2005, with particular focus on issues around loot boxes. It is important that gambling legislation is applied to activities in a proportionate manner, and any change should be informed by evidence and after a full consideration of the unintended consequences that may result. Our plans to address this issue will be set out in the government’s response to the Digital, Culture, Media and Sport Committee’s report on immersive and addictive technologies, which will be published as soon as possible.

While each country’s regulatory framework is different, we’re pleased that the Gambling Commission has also been cooperating extensively with counterparts across Europe and the rest of the world on this issue, including through the Gaming Regulators European Forum which released its synthesis report in October last year. We are also pleased that the video games industry has taken concerns seriously. We welcome PEGI’s creation of a ‘paid random items’ content label to warn consumers where games contain such mechanics, and also welcome the platforms’ and publishers’ August 2019 commitment to disclose the odds of getting certain items.<sup>4</sup>

Evidence given to this committee by Dr David Zendle highlighted the fact that loot boxes are just one of the ways that children may be encouraged to spend money online. It is important that children are well equipped to make informed and sensible decisions. ParentZone has produced resources to help parents have conversations with children about risks – financial and otherwise – that they may encounter when gaming online. Schools have the flexibility to address issues such as loot boxes. For example, this could be covered when pupils are taught the risks related to online gambling in Health Education. There is also a strong focus within Health Education on pupils being taught more broadly about self-regulation, as well as how to manage risk. Pupils will also be taught how to be discerning consumers of information online and the risks of excessive use of electronic devices.

The computing curriculum is also sufficiently broad to allow for teaching about these types of products, throughout primary and secondary school, as part of its e-safety content. Teachers may choose to highlight the dangers of online

---

<sup>4</sup> <https://pegi.info/news/pegi-introduces-feature-notice>, and <https://www.isfe.eu/news/video-game-industry-commitments-to-further-inform-consumer-purchase/>

gambling, and other less obvious ways in which young people are encouraged to spend money whilst using digital platforms, such as loot boxes.

*8. In oral evidence to the Committee, gambling operators suggested that affiliates should be regulated by the Gambling Commission. What are your views? Will you consider such a regulatory amendment of the 2005 Act?*

In October 2018 the Gambling Commission made a change to its licence conditions to make absolutely clear that operators are liable for the actions of affiliates they have engaged. This change was made in response to evidence that some affiliates were misleading potential customers, and means that the Gambling Commission can take action against operators for poor behaviour on the part of their affiliates. It is right that operators should take responsibility for ensuring that all of their marketing activities, however these are delivered, are socially responsible and face consequences if they fail to do so.

9. *The Government has the power to introduce a mandatory levy on the gambling industry, but has so far declined to do so. Can you explain the reasons for this?*

The Gambling Act 2005 includes a provision for the creation of a mandatory levy payable to the Gambling Commission. The Act states that funds collected through such a levy are to be used by the Commission to fund projects related to addiction to gambling, other forms of harm or exploitation associated with gambling, or any of the Commission's licensing objectives. It is unusual for a regulator to be the commissioner of support services and we are concerned that placing such a responsibility on the Gambling Commission risks broadening its remit too far. Funding for the Commission's licensing objectives are provided by licence fees without the need for a separate levy on operators (see q5 for more detail about licence fees).

Our focus to date with regard to gambling addiction treatment has been on ensuring that we have the right level and forms of support available for those who need it, rather than the mechanism by which this provision is funded.

The Gambling Commission requires operators to support research, prevention, and treatment of problem gambling and in January 2020 it amended this rule to specify the organisations that it considers suitable recipients for these donations. The Commission plans to begin publishing the value of these donations on its website. During the 2018/19 financial year the gambling industry gave £9.6m to the charity GambleAware, which commissions research, education, the National Gambling helpline, and a network of treatment services. Industry group the Betting and Gaming Council estimates that a further £9.7m was given to other charities.<sup>5</sup>

In July 2019 five major operators also committed to increase their donations tenfold, from 0.1% to 1% of gross gambling yield over the next four years. This included a commitment to spend a cumulative £100m on treatment over those four years. We welcome this commitment and will monitor progress against it closely.

A mandatory levy on operators would also be a hypothecated tax. Public services are not usually funded by such taxes as they risk raising too much or too little for the purposes for which they are intended. As Lord Smith of Hindhead observed in his question to Sir Alan Budd on 3rd September 2019, 'the drinks industry does not specifically have to pay for liver disease treatment; the smoking industry does not specifically have to pay for lung disease treatment; the motor vehicle industry does not specifically have to pay for car accident treatment.' Alcohol and tobacco products are taxed in recognition of their social costs and support services are funded from general taxation, according to need. The upscaling of NHS treatment for problem gambling under the NHS long-term plan is primarily funded through this route.

We are working on building the evidence base to inform our understanding of the treatment need, which will in turn inform decisions on funding need. In the *Government Response to Proposals for Changes to Gaming Machines and Social*

---

<sup>5</sup> *Industry Facts & Figures*, Betting and Gaming Council, 2019

*Responsibility* published in May 2018, it was announced that Public Health England would undertake an evidence review of the prevalence of gambling, its associated health harms and their economic and social burden. This study by Public Health England is complemented by an evidence review conducted by the National Institute of Health Research that aims to establish which interventions are effective and cost-effective in preventing or reducing gambling-related harm. The National Institute of Health Research will publish its report in the coming months, while pressures resulting from Covid 19 have delayed the likely publication date of Public Health England's review until later in 2020 or early 2021. Work is also underway to scope a cross-government addiction strategy that will include gambling.

*10. The Gambling Commission has stated that "effective use of account-based data can be used to protect players" online. If operators fail to use account-based data to protect their players, would the Government consider introducing online limits on stakes and prizes to mirror those in land-based bookmakers?*

As the CEO of the Gambling Commission set out in his evidence to the committee, online gaming and betting is entirely account-based. This allows operators to track the activities of their customers, and gives them large amounts of data that can be used to monitor and understand their customers' playing patterns and habits. This is in contrast to land-based gaming machines where most players remain anonymous.

Online account data can, and must, be used to identify in real time behaviours that may indicate a customer is at risk of suffering harm related to gambling. The Gambling Commission requires operators to intervene where they see evidence that harm may be occurring. This committee has heard evidence from operators on what they consider to be 'markers of harm', which includes behaviours such as increasing stake sizes, increasing length of gambling sessions, or chasing losses. Operators must evaluate the effectiveness of interventions in preventing harm. In principle, this allows them to tailor protections to each individual's circumstances and behaviour, rather than apply a blanket measure.

If operators fail in this regard, the Gambling Commission has shown that it will take action. For instance, it was announced in February 2020 that an operator would pay £3m in lieu of a fine because it had not intervened where there was evidence that customers were at risk of suffering harm, and subsequent enforcement cases have involved the suspension of operating licences.

The government has committed to review the Gambling Act 2005 to make sure we have the right protections in place for the digital age. However, the work of the government and the Gambling Commission to protect children and vulnerable people will continue throughout the review process. We will continue to press industry to improve its social responsibility measures and practices. Gambling operators serving the British market have the expertise, resources and opportunity to develop world leading player protection measures and we expect them to do so. If they fail, the government and the Commission will take whatever further action is needed, including introducing limits on stakes and prizes if the evidence shows these are required to protect players.



*11. The Committee has received considerable evidence which questions the value of education, and states that it is one of the weakest interventions to prevent problem gambling. What are your views? Have you undertaken any evaluation of education as a prevention tool?*

It is often difficult to prove the direct impact of these lessons, as there are many factors that contribute to pupils' well-being and behaviour and many of these lie outside of the school environment. These subjects have a strong focus on supporting pupils to make healthy, informed choices, now and in the future.

Many of the wider lifestyle factors associated with gambling addiction may be linked to poor mental health, and gambling addiction can create a cycle of debt.

These subjects have a broader focus than teaching solely about gambling. Ultimately the strength of this approach is that it enables young people to make informed decisions and consider all aspects of their relationships, health and well-being, which ultimately supports prevention. Throughout these subjects there is also a clear emphasis on ensuring young people know how and when to ask for support.

These subjects complement teaching through other curriculum subjects, such as citizenship, mathematics and computing, which can also, if necessary, address online gambling and its dangers.

*12. The Committee has heard serious concerns about GambleAware, its role, relationship with key stakeholders and the impact of its work. If treatment is a matter for the NHS, education is a matter for the Department for Education and specialist charities, and there are serious concerns about the current system for commissioning research, what is the role of GambleAware? And does it remain fit for purpose?*

A good deal of the criticism that GambleAware faces relates to a perception that industry funding undermines its independence. However, GambleAware is a fully independent charity which has had no industry representation on its board since 2018.

GambleAware plays an important commissioning role in the system of provision of research, education and treatment related to gambling and gambling addiction. As Kate Lampard, chair of GambleAware, noted in her evidence to this committee, the role of a commissioning body is an established one that is seen in many well developed health systems because it makes for a robust and accountable system. By coordinating the activities of providers, it is able to minimise duplication and scale up provision where it identifies a gap. This commissioning role allows it to monitor and ensure the quality of a range of services across all three areas. It also allows it to evaluate the effectiveness of the projects and work it funds. It is working with the Care Quality Commission to have its treatment services quality assured, and the research it commissions is peer reviewed.

GambleAware commissions research which supports a programme set by the Gambling Commission and its advisory group (the Advisory Board for Safer Gambling), with the aim of building the evidence base required to inform developments in regulation and industry practice. This research is commissioned according to principles set out in their governance procedures. These dictate that research priorities must be transparent and subject to consultation, that projects must have a clear and publicly available brief, that the process and criteria for assessing responses to briefs must be publicly available, and that there must be a transparent process for identifying and managing conflicts of interest.<sup>6</sup>

GambleAware's wide range of commissioned treatment services particularly complement the treatment work of governmental and statutory bodies. As part of the expansion of NHS clinics, NHS England are working closely with GambleAware and their treatment partner GamCare to better understand treatment referral pathways and ensure NHS expertise is used to support those with a mental health need. The National Gambling Helpline, commissioned by GambleAware and provided by GamCare, operates 24 hours a day, seven days a week and ensures that help is always available for those who need it.

GambleAware also commissions programmes that give training to those working with children, and creates resources for teachers to help them educate children about the risks of gambling. Schools have flexibility over how they deliver Health Education, so they can develop an approach that is sensitive to the needs and backgrounds of their pupils. Many schools draw on the work of subject

---

<sup>6</sup> Research Commissioning and Governance Procedure, Gambling Commission and GambleAware, 2018

associations when choosing resources; for example, the PSHE Association, which has worked with GambleAware to produce materials on gambling. Their quality assurance process includes working with teachers and external experts to ensure materials are fit for purpose.

The statutory guidance for Relationships, Sex and Health Education sets out clear advice on choosing resources. The guidance advises that schools should assess each resource they propose to use to ensure it is appropriate for the age and maturity of pupils, and factually accurate. The guidance also sets clear parameters for schools such as encouraging the use of quality-assured resources. Schools may choose to work with external organisations who can enhance delivery of these subjects, bringing in specialist knowledge and different ways of engaging with young people.

The Department for Education is continuing to work with trusted organisations through the RSHE working group. The Department will also be including advice on choosing resources in our implementation guide, which will be published as part of our school support package.

*13. The Committee has heard repeated concerns about the relationship between the gambling industry and gambling research. The Committee has heard various suggestions for the future of gambling research including handing responsibility to the Economic and Social Research Council. Do you believe that the current commissioning system is effective? What are your views on the proposal to involve the ESRC?*

Problem gambling is a complex issue and it is important that we have the right evidence to help us tackle it. The Gambling Commission produces reliable statistics on participation and attitudes towards gambling in both adults and children at regular intervals, and the Health Surveys provide detailed statistics on participation and rates of problem gambling. Public Health England and the National Institute of Health Research are soon to report on major evidence reviews on prevalence, impact and interventions for gambling harms. In addition to the Gambling Commission's research to support its regulatory work, GambleAware commissions research in line with the priorities identified by the Gambling Commission's Advisory Board for Safer Gambling. All of this research is commissioned and conducted independently of industry and without industry influence over subject or findings.

The government will always welcome an increase in high-quality research that enriches the evidence base around gambling and problem gambling. Researchers are free to direct proposals for gambling-focussed research to the research councils, as they are for all other areas of inquiry. The Economic and Social Research Council and the Medical Research Council have funded research into gambling in the past and we would welcome them funding more such projects in the future. Department for Digital, Culture, Media and Sport officials are looking to meet with both councils to understand how this might best be facilitated.

*14. There has been some confusion in both the oral and written evidence received about the duty of care, if any, owed by a gambling operator to its clients. What are your views on amending the law to clarify that gambling operators owe a duty of care in tort to individual gamblers in certain circumstances, such as where an operator has failed to undertake affordability checks or failed to give effect to a request for self-exclusion?*

It is our understanding that a duty of care can already exist in law. The courts have previously indicated that such a duty can arise where there is a special relationship between operator and customer, for example where a customer has requested to self-exclude, and that an operator which fails to uphold self-exclusion where it has been requested may be in breach of such a duty of care. Thus far, to our knowledge, the courts have declined to award compensation where such a duty of care exists and has been breached, as it could not be demonstrated that a customer had suffered financial harm as a direct result of an operator's failure to uphold a self-exclusion. A key reason why has been that gamblers found it hard to prove that they would not have gambled and lost money with a different operator from which they had not self-excluded. However, customers are now able to self-exclude from all licensed online operators by registering with GAMSTOP, which may make it more difficult for operators to successfully argue that their customer's financial harm was not a direct result of their failing in such cases.

Gambling operators are already subject to a specific and extensive regulatory and licensing regime, deriving from the Gambling Act 2005, which offers a range of protections and assurances to customers. The Gambling Commission has a broad range of regulatory sanctions available, which include financial penalties, divestment of money voluntarily to victims as part of the regulatory settlement process, and the power in section 336 of the Act to void bets and order repayment of any money paid in relation to a bet. This licensing regime allows the Gambling Commission to carry the burden of ensuring operators do not exploit or mistreat customers, rather than requiring customers to incur significant costs pursuing operators through the courts.

*15. In 2019, the Government consulted on the minimum age for purchasing National Lottery products. Many witnesses have suggested that the minimum age for all gambling products, including Category D machines, should be 18. What are your views?*

The consultation on the minimum age to play National Lottery games closed in October 2019. Responses are being analysed and we will publish a formal response in due course.

Protecting children and young people from gambling harms is a priority for the government and the Gambling Commission. As part of the *Government Response to Proposals for Changes to Gaming Machines and Social Responsibility* we strengthened rules to require online operators to verify the age of customers before they can deposit money or gamble.

The Gambling Commission's Responsible Gambling Strategy Board (now the Advisory Board for Safer Gambling) looked at the question of whether Category D machines and other forms of gambling that are currently available to under-18s should be restricted to adults. It concluded that the balance of the argument did not support such a decision because there was no conclusive evidence of harm resulting from these forms of play.<sup>7</sup> While noting the small evidence base to draw on, the Responsible Gambling Strategy Board pointed to a 2012 study which found that while gambling participation rates are generally higher in coastal areas, where seaside arcades are popular destinations for families and children, these areas did not have higher child problem gambling rates.<sup>8</sup>

Data collected by the Gambling Commission shows that children's participation in gambling is declining. In 2011 23% of 11-16 year olds had gambled in the past week but by 2019 this rate had fallen to 11%. The most popular forms of gambling amongst those age groups are private betting (5%) and playing on fruit machines (4%). While 16 and 17 year olds are legally allowed to play football pools, lotteries and scratchcards, their levels of participation in these activities is low. We know that the majority (67%) of children who gamble do so when they are with their parents, and that over half of children (53%) see their parents as their first port of call for help if they were to become concerned about their gambling.<sup>9</sup> All forms of gambling carry a degree of risk and parents have an important role to play in ensuring that when children do gamble, they do so safely.

---

<sup>7</sup> Children, young people and gambling: A case for action, Responsible Gambling Strategy Board, 2018

<sup>8</sup> Gaming and Problem Gambling Among Adolescents in Great Britain, Forrest and McHale, Journal of Gambling Studies, 2012

<sup>9</sup> Young People and Gambling Survey 2019, Gambling Commission, October 2019

*16. The Secretary of State has power to make regulations to regulate gambling advertising, and the Committee has heard that the Gambling Commission should have greater powers over gambling advertising, rather than the current system of co-regulation. What are your views on using the powers in the Act to delegate the responsibility for gambling advertising to the Gambling Commission?*

The existing system of co-regulation of advertising works well for gambling advertising. It allows the Advertising Standards Authority, the Committee of Advertising Practice, and the Broadcast Committee of Advertising Practice, as the experts at advertising regulation, to issue considered and practicable rules and guidelines for operators to follow in their advertising content and placement. If serious or repeated breaches occur, the Advertising Standards Authority can refer advertisers to the Gambling Commission and broadcasters to Ofcom. The Gambling Commission, with its powers to issue fines and sanctions, requires compliance with the codes as a social responsibility condition. This enables it to support the enforcement efforts of the Advertising Standards Authority and take action against those who refuse to follow the rules and guidelines.<sup>10</sup> The benefits of the Gambling Commission taking sole responsibility for regulating all gambling advertising are not clear, especially as they have limited knowledge of the wider advertising landscape.

It is important to note that the Gambling Commission remains able to intervene to direct operators to improve their behaviour related to advertising. The Commission issued a challenge to operators to find ways of using advertising technology to reduce the amount of advertising seen by children, young and vulnerable people. This has resulted in a number of commitments in this area, including measures to ensure that adverts are not inadvertently targeted at those seeking information about how to self-exclude from gambling.

*17. Witnesses, including gambling operators, have agreed that gambling advertising is far too prevalent. What are your views on the suggestion that all gambling advertising should be prohibited, or all gambling advertising related to sport?*

The Gambling Act 2005 permits licensed operators to advertise in a socially responsible manner. Gambling companies in Britain operate in a competitive market and advertising is one of the ways that they are able to compete for market share. It is also one of the primary advantages that licensed and regulated operators have over the black market. Prohibiting all gambling advertising would undermine our ability to keep those who choose to gamble safe when doing so.

---

<sup>10</sup>See for instance: <https://www.gamblingcommission.gov.uk/news-action-and-statistics/News/lotto-land-to-pay-150000-for-advertising-failings>, <https://www.gamblingcommission.gov.uk/news-action-and-statistics/News/gambling-business-fined-350000-for-advertising-failures>

Gambling adverts are not allowed to target children or portray, condone or encourage gambling behaviour that is socially irresponsible or could lead to financial, social or emotional harm. The Gambling Commission can take action to sanction operators whose advertising breaks these rules. An industry voluntary ban on advertising on television before 9pm, except for bingo and lotteries, was extended in August 2019 to include advertising around daytime live sport. This 'whistle-to-whistle' ban prohibits betting adverts being shown from five minutes before the match starts to five minutes after the match ends, and applies even where the match runs across the watershed to end after 9pm. A responsible gambling message must appear on screen throughout all TV adverts.

The Commission expects operators to target their online advertising away from children and vulnerable people where possible. In response to a challenge from the Gambling Commission to make better use of advertising technology, the industry has recently committed to develop a comprehensive list of search terms commonly used by those looking for information about how to self exclude from gambling, in order to ensure that these searches do not result in gambling ads being served. Industry has also committed to age-gate operator Youtube channels and content, to make consistent and effective use of customer data to limit ads being served to vulnerable people on social media, and to implement +25 age targeting on social media where platforms allow. Industry has committed to implement these measures by July 2020 and the Gambling Commission will be monitoring its progress.

We have seen spend on advertising increase during the past decade. Research commissioned by GambleAware estimated that spend on off-line advertising increased by 24% between 2015-18.<sup>11</sup> This increased spend does not seem to have created a sharp increase in the numbers of those who gamble as gambling participation rates hovered between 45% and 48% during that time. Problem gambling rates also remained steady during that period at below 1%.<sup>12</sup> We have not seen evidence that demonstrates a causal link between advertising and gambling harms amongst the general population but we continue to monitor the situation closely.

Recently published research into the effect of advertising and marketing on children, young and vulnerable people found that while there was some indication that exposure to advertising was associated with an openness to gamble in the future amongst children and young people aged 11-24 who did not currently gamble, there were other factors that correlated more closely with current gambling behaviour amongst those groups. For instance, those with a close friend who gambled were six times more likely to gamble themselves, and those with a parent who gambled were twice as likely to gamble. While advertising and marketing undoubtedly makes children and young people more likely to be aware of the existence of opportunities to gamble, and may make them more likely to consider gambling in the future, other factors seem to be of greater significance in leading that child or young person to gamble and in shaping their gambling behaviours.<sup>13</sup>

---

<sup>11</sup> The effect of gambling advertising and marketing on children, young people and vulnerable adults, Ipsos Mori, 2020

<sup>12</sup> Gambling participation in 2019: behaviour, awareness and attitudes, Gambling Commission, 2020

<sup>13</sup> The effect of gambling advertising and marketing on children, young people and vulnerable adults, Ipsos Mori, 2020



This research would seem to suggest that while it is important that there are proper protections in place to ensure that advertising and marketing does not target or exploit children and vulnerable groups, a simple ban on advertising would not be a proportionate or particularly effective means of limiting gambling harms. Instead, gambling advertising is subject to strict rules on content and targeting, with these controls working as part of a broader package of protections that ensure children and young people understand the risks of gambling, are prevented from participating in age-restricted forms of gambling, and are able to access treatment and support if they are experiencing gambling harms.

The government understands that advertising around sport is a particular matter of concern for some people. We have been clear with both gambling operators and sporting bodies that sponsorship and related marketing activities must always be done in a socially responsible way, and that they must consider their responsibility to the welfare of fans and supporters when entering into commercial arrangements. Gambling logos must not feature on merchandise targeted at children, for example shirts in children's sizes, and the Betting and Gaming Council has committed to produce a further code of conduct for sponsorship activities that will be published this year.

It should be noted that even before the whistle to whistle ban, adverts for sports betting accounted for a small proportion of the gambling advertising seen by children (0.7 ads per week, from a total of 3.2 gambling ads per week seen on average by children in 2018),<sup>14</sup> and that problem gambling rates amongst those who bet online (2.5%) are amongst the lowest for any gambling activity other than lotteries, while rates amongst those who place bets on sports in person are relatively low (5.1%) compared to other forms of gambling e.g. playing machines in bookmakers (13.7%).<sup>15</sup> Figures giving an indication about the impact of the whistle to whistle ban are due to be published by the Advertising Standards Authority in the coming months.

*29 April 2020*

---

<sup>14</sup> Children's exposure to age-restricted TV ads: 2018 updates, Advertising Standards Authority, 2019

<sup>15</sup> Gambling behaviour in Great Britain in 2016: evidence from England, Scotland and Wales, NatCen, 2018