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Government Review of the Gambling Act 2005

Purpose of report

For discussion.

Summary

This paper is intended to update the Board on the Department for Culture, Media and Sport's (DCMS) review of the Gambling Act 2005 and open a discussion to inform the Board's response to the call for evidence.

Recommendation

That Members consider the report and use it as a basis to shape discussion.

Action

Officers will use the discussion as a basis to develop a draft response to DCMS's review of the Gambling Act 2005, for sign off by Lead Members.

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Government Review of the Gambling Act 2005

Background

1. In December, the Department for Culture Media and Sport (DCMS) launched a major and wide-ranging review of gambling laws to ensure they are fit for the digital age. The review was a commitment in the Conservative Party manifesto at the 2019 General Election.
2. The review of the Act is welcome given the significant changes to the gambling landscape since the Gambling Act 2005 was introduced, most notably with the shift to online or remote gambling from more traditional land-based operations like high street betting shops.
3. Government's objective for the review of the Gambling Act is to ensure the existing regulatory framework is fit for purpose and continues to meet its aims which are; to protect children and vulnerable people, prevent gambling related crime, and keep gambling fair and open. The first phase of the review is a [call for evidence](#); while the review covers the whole of the Act, the Government has identified a particular focus on:
 - 3.1. online protection – players and products
 - 3.2. advertising, sponsorship and branding
 - 3.3. the Gambling Commission's powers and resources
 - 3.4. consumer redress
 - 3.5. age limits and verification
 - 3.6. land based gambling.
4. The findings from the call for evidence will be used to inform proposed changes to the Gambling Act 2005, expected to be set out in a white paper next year.
5. As licensing authorities, councils are a key partner in gambling regulation and are responsible for overseeing land based (non-remote) gambling - for example betting shops, bingo halls, casinos and family entertainment centres - in their local areas. This involves setting the local framework for gambling through their statement of principles; considering applications and issuing licences for premises where gambling takes place and undertaking inspection and enforcement activities, including tackling illegal gambling.
6. Of the five areas of focus identified above, councils play a limited direct role in terms of gambling regulation and we therefore do not anticipate being able to contribute significantly in terms of actual evidence to the review, although we will seek the views of

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member councils on these issues. However, the themes include issues where the Board has expressed an interest and view before (eg, advertising and sponsorship). We are therefore seeking members' views on how best to respond to the call for evidence, either by providing a response focused on areas where councils do have a role to play, or alternatively developing a more in depth response which looks beyond councils' direct remit.

Issues

LGA's previous work

7. The LGA's key areas of focus previously in terms of gambling has been around Fixed Odds Betting Terminals (FOBTs) and betting shop clustering. The LGA actively lobbied government to reduce the stakes on FOBTs to £2 to bring them in line with maximum stakes playable on other high street gaming machines. Following a lengthy consultation process in 2018 Government announced that it would reduce maximum stakes on FOBTs to £2 and changes were introduced in 2019.
8. Linked to FOBTs, betting shop clustering has also been something that member councils have been concerned about and the LGA has previously called for additional powers to restrict the openings of new betting shops in areas where there are already clusters.
9. In the last 18 months there have been a number of closures of high street betting shops, some of which could be attributed to stake reductions. Closures are likely to mean that clustering has ceased to be such a pressing issue for councils. However, as a general principle we would propose that the LGA should still use the review to call for councils to have greater powers under the Act to determine whether it is appropriate for new gambling premises of any type to open in their areas. Members' views on this point would be very helpful.
10. Problem gambling is another area that the Board has taken an interest in. Over the past few years, we have been supporting councils to develop a better understanding of gambling related harm and the role councils can play to identify and support local residents and families who are affected by it (although the primary responsibility for treatment rests with other bodies). This included the development of [a handbook for councils on tackling gambling related harm](#) and a well-attended event to share good practice.
11. Whilst councils do not have a direct role in regards to gambling related harm, it is an issue that we are aware many councillors have concerns about, and may experience in their role as ward councillors. It would therefore be helpful if the Board could consider

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whether the Board has a shared view on these issues and would like to put forward a view on related issues including player protection measures, advertising and so forth, despite these issues being outside councils' immediate remit, or whether the Board would prefer a shorter and more focused response covering only those issues where councils have a specific interest.

12. As a basis for discussion the following summarise the key areas the call for evidence will cover although DCMS have been clear that this is a wide-ranging review and are open to any additional evidence.

Online protections

13. Since the Act was introduced technological developments mean that significant numbers of people gamble remotely; in 2019, 21 percent of adults surveyed had gambled online in the previous four weeks. Given the significant shift towards online gambling, the key focus of the review will be on the protection of online gamblers.
14. The call for evidence outlines various player protection obligations on gambling companies as conditions of their operating licenses with breaches subject to compliance and enforcement action by the Gambling Commission. Gambling operators are expected to monitor a player's behaviour and intervene when they see signs of risk or harm. They must also make it easy for players to set limits on their own play and prevent them from gambling at all if they have self-excluded.
15. However, concerns have been raised that the current system of online protections is not sufficiently effective at preventing gambling harm. There is evidence of gamblers being able to spend very large sums of money which they could not afford in short spaces of time without effective operator intervention, leading to devastating effects for individuals and their families.
16. Concerns have also been raised about the nature of online gambling products themselves. Online gamblers can access a wide variety of products, from National Lottery games, to sports betting, bingo, casino games and slots.
17. As noted above, online gambling is outside the regulatory remit of councils as licensing authorities, and the LGA does not have technical expertise/evidence to offer on specific forms of protection. **However, the Board may wish to consider whether there are general principles that they wish to advocate**, for example whether stake limits should apply consistently across machines in council regulated gambling premises as well as online (there are currently no stake limits online), or whether account based

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gambling, which is required to gamble online, should be replicated in premises to help identify harmful patterns of play.

Advertising and sponsorship

18. Government are keen to explore evidence of the impact of gambling advertising and sponsorship, including in relation to vulnerable groups.
19. The volume of gambling advertising has been the focus of various pieces of research in the last few years. In May, the Advertising Standards Authority (ASA) reported that TV gambling advertising exposure has remained at similar levels over the last six years.
20. However, as with other sectors, there has been a shift in focus to advertising online and via social media. Analysis commissioned by GambleAware estimated that in 2017, the gambling industry spent £1.5bn on advertising and marketing, around 80% of which was through online channels. Government is looking for evidence on harms caused by advertising as part of the call for evidence.
21. In terms of the impact of advertising on vulnerable groups, GambleAware recently commissioned research to look at the impact of gambling advertising and marketing on children, young people and vulnerable adults. The findings of the research were published in March 2020 and showed that gambling is now seen as part of everyday life for these groups. The research also revealed a link between exposure to gambling advertising and attitudes towards the prevalence and acceptability of gambling which increase the likelihood that a child, young person or vulnerable adult will gamble in the future. The research also found that children are regularly exposed to gambling advertising on social media platforms.
22. Sponsorship is also a significant channel for gambling brand marketing. Betting companies sponsor sports teams and events, including shirt sponsorship and have forged deals with sports bodies. These commercial arrangements are a significant source of income for British sports and teams, particularly horse racing and football teams. There has been growing public concern about the relationship between sport and gambling and the review is seeking evidence on the positive and negative outcomes of this relationship to make sure we can strike an appropriate balance in developing policy.
23. The LGA has previously called for greater control on the volume of gambling advertising and sponsorship. **It would be helpful to understand whether this is an issue that the Board would like to raise in response to the current call to evidence.**

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The Gambling Commissions power and resources

24. The review will also look at the powers and resources of the Gambling Commission and whether they are able to regulate effectively. The Gambling Commission was set up under the Gambling Act and has responsibility for regulating gambling and issuing operating licences to gambling businesses and personal licences to individuals. The Commission is funded through licence fees paid by the industry and in 2019-20 it had an income of £19.9 million. The Commission is in the process of restructuring to focus regulatory resources on the larger and more complex online gambling industry.
25. In 2020 the National Audit Office (NAO) undertook a review of gambling regulation and in particular the role of the Gambling Commission. The NAOs report concluded that the Gambling Commission and government need to do more to ensure that regulation can protect gamblers effectively.
26. Councils work in partnership with Gambling Commission to regulate gambling and have close relationships including through the Commission's regional compliance officers, a role which has recently been removed as part of the ongoing restructure. Compliance officers gave advice and support to councils with the development of local statements of gambling policy, with inspections of gambling premises as well as with training. **This support was valued by council officers and, subject to the Board's approval, we would be keen to put forward the point that the Commission must have the resources to continue to support councils in this way.**

Land based gambling

27. The review also includes a broad question about evidence on whether local authorities and other licensing authorities have the powers they need in respect of gambling premises to effectively fulfil their role. Government have a particular interest in the controls in place for casinos and whether they are still appropriate in a digital age.
28. The Board may recall that at the time the Gambling Act was being debated in Parliament, concern about the liberalisation of gambling laws was largely focused on casinos. Reflecting these concerns, councils are able to pass a 'no-casino' resolution preventing the opening of a new casino under the 2005 Act. In contrast, councils have virtually no powers to prevent the opening of betting shops or other gambling premises and in practice, it was this issue that has proved to be the biggest challenge for councils since the Act came into effect. While this issue may have diminished since the reduction of FOBT stakes and overall decline in the number of betting shops, the Act in its current form is imbalanced. **We would welcome the Board's confirmation of whether we**

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should continue to advocate for councils to have stronger powers to determine the opening of local gambling premises.

29. As part of wider stakeholder engagement to inform our response to the call for evidence, we intend to consult with local authorities to get a practitioner view and this will include seeking views of councils such as Westminster, which have a proliferation of gambling establishments, and Leeds and Blackpool, which have direct experience of regulating casinos.

Customer Redress and Age Limits and Verification

30. The call for evidence is also looking at the availability and suitability of redress arrangements consumer redress for individual customers who feel they have been treated unfairly by gambling operators. Currently the primary route for individuals to seek redress for social responsibility failings on the part of operators is through the courts, which can be costly and time consuming.
31. Age limits and verification is the final theme and the review will look at the effectiveness of age controls, protections for young adults, and the age limit for society lotteries. It has also been announced that the minimum age for playing the National Lottery will be raised from 16 to 18 from October 2021.
32. Of particular note for councils, the review refers to test purchasing in gambling premises and seeks evidence of the effectiveness of measures to prevent under-18s from playing on the category C gaming machines that pubs have an automatic entitlement to offer. A recent piece of work by the Gambling Commission found widespread evidence of failure to prevent under-18s from playing on these machines. We know that in previous years, the Gambling Commission has highlighted concern about the level of proactive work by councils in relation to test purchasing and broader inspection in local gambling premises.

Implications for Wales

33. Gambling is a reserved matter and the Act covers England, Wales and Scotland. We will seek the views of Welsh councils along with English councils.

Financial Implications

34. This work will be carried out within existing budgets.

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Next steps

35. Officers will use the discussion as a basis to develop a draft response to the call for evidence. We will also engage with other relevant stakeholders and seek practitioner input.

ANNEX A: Overview of Questions in Call for evidence

Online protections - players and products

Q1: What evidence is there on the effectiveness of the existing online protections in preventing gambling harm?

Q2: What evidence is there for or against the imposition of greater controls on online product design? This includes (but is not limited to) stake, speed, and prize limits or pre-release testing.

Q3: What evidence is there for or against the imposition of greater controls on online gambling accounts, including but not limited to deposit, loss, and spend limits?

Q4: What is the evidence on whether any such limits should be on a universal basis or targeted at individuals based on affordability or other considerations?

Q5: Is there evidence on how the consumer data collected by operators could be better deployed and used to support the government's objectives?

Q6: How are online gambling losses split across the player cohort? For instance what percentage of GGY do the top and bottom 10% of spenders account for, and how does this vary by product?

Q7: What evidence is there from behavioural science or other fields that the protections which operators must already offer, such as player-set spend limits, could be made more effective in preventing harm?

Q8: Is there evidence that so called 'white label' arrangements pose a particular risk to consumers in Great Britain?

Q9: What evidence, if any, is there to suggest that new and emerging technologies, delivery and payment methods such as blockchain and crypto currencies could pose a particular risk to gambling consumers?

Q10: Is there any additional evidence in this area the government should consider?

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Advertising, sponsorship and branding

Q11: What are the benefits or harms caused by allowing licensed gambling operators to advertise?

Q12: What, if any, is the evidence on the effectiveness of mandatory safer gambling messages in adverts in preventing harm?

Q13: What evidence is there on the harms or benefits of licensed operators being able to make promotional offers, such as free spins, bonuses and hospitality, either within or separately to VIP schemes?

Q14: What is the positive or negative impact of gambling sponsorship arrangements across sports, esports and other areas?

Q15: Is there any additional evidence in this area the government should consider, including in relation to particularly vulnerable groups?

The Gambling Commission's powers and resources

Q16: What, if any, evidence is there to suggest that there is currently a significant black market for gambling in Great Britain, or that there is a risk of one emerging?

Q17: What evidence, if any, is there on the ease with which consumers can access black market gambling websites in Great Britain?

Q18: How easy is it for consumers to tell that they are using an unlicensed illegal operator?

Q19: Is there evidence on whether the Gambling Commission has sufficient investigation, enforcement and sanctioning powers to effect change in operator behaviour and raise standards?

Q20: If existing powers are considered to be sufficient, is there scope for them to be used differently or more effectively?

Q21: What evidence is there on the potential benefits of changing the fee system to give the Gambling Commission more flexibility to adjust its fees, or potentially create financial incentives to compliance for operators?

Q22: What are the barriers to high quality research to inform regulation or policy making, and how can these be overcome? What evidence is there that a different model to the current system might improve outcomes?

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Q23: Is there evidence from other jurisdictions or regulators on the most effective system for recouping the regulatory and societal costs of gambling from operators, for instance through taxes, license fees or statutory levies?

Q24: Is there any additional evidence in this area the government should consider?

Consumer redress

Q25: Is there evidence of a need to change redress arrangements in the gambling sector?

Q26: If so, are there redress arrangements in other sectors or internationally which could provide a suitable model for the gambling sector?

Q27: Individual redress is often equated with financial compensation for gambling losses. However, there may be risks associated with providing financial lump sums to problem and recovering gamblers, or risks of creating a sense that gambling can be 'risk free'. Are there other such considerations the government should weigh in considering possible changes to redress arrangements?

Q28: Is there any additional evidence in this area the government should consider?

Age limits and verification

Q29: What evidence is there on the effectiveness of current measures to prevent illegal underage gambling in land based venues and online?

Q30: Is there evidence of best practice, for instance from other jurisdictions, in how to prevent illegal underage gambling?

Q31: What, if any, evidence is there on the number of 16 and 17 year olds participating in society lotteries?

Q32: What, if any, evidence is there to show an association between legal youth engagement in society lotteries and problem gambling (as children or adults)?

Q33: Is there comparative evidence to support society lotteries and the National Lottery having different minimum ages to play?

Q34: What are the advantages and disadvantages of category D slot machine style gaming machines being legally accessible to children?

Q35: Is there evidence on how the characteristics of category D slot machine style gaming machines (for instance whether they pay out in cash or tickets) factor into their association with harm in childhood or later life?

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Q36: What, if any, is the evidence that extra protections are needed for the youngest adults (for instance those aged between 18 and 25)?

Q37: What evidence is there on the type of protections which might be most effective for this age group?

Q38: Is there any additional evidence in this area the government should consider?

Land based gambling

Q39: What, if any, changes in the rules on land based gambling would support the government's objectives as set out in the document? Please provide evidence to support this position, for instance how changes have worked in other countries.

Q40: What evidence is there on potential benefits or harms of permitting cashless payment for land based gambling?

Q41: Is there evidence that changes to machine allocations and/ or machine to table ratios in casinos to allow them to have more machines would support the government's objectives?

Q42: What is the evidence that the new types of casino created by the 2005 Act meet (or could meet) their objectives for the sector; supporting economic regeneration, tourism and growth while reducing risks of harm?

Q43: Is there evidence on whether licensing and local authorities have enough powers to fulfil their responsibilities in respect of premises licenses?

Q44: Is there evidence that we should moderately increase the threshold at which local authorities need to individually authorise the number of category D and C gaming machines in alcohol licensed premises?

Q45: Is there any additional evidence in this area the government should consider?