

## Money and Mental Health response to the Department for Digital, Culture, Media and Sport's Review of the Gambling Act 2005 Terms of Reference and Call for Evidence

### Introduction

The Money and Mental Health Policy Institute is a research charity established by Martin Lewis to break the vicious cycle of money and mental health problems. We aim to be a world-class centre of expertise developing practical policy solutions, working in partnership with those providing services, those who shape them, and those using them, to find out what really works. Everything we do is rooted in the lived experience of our Research Community, a group of 5,000 people with personal experience of mental health problems.

This written submission has been informed by this powerful, lived experience testimony, as well as our wider body of research. Unless otherwise specified, all quotes in this response are drawn directly from our Research Community. In particular, it makes reference to research conducted for a recent report, *A Safer Bet*, published in July 2020 that looked at people with mental health problems' experiences of online gambling. This involved a survey of 238 members of our Research Community who had gambled online, as well as a focus group. For more information please read our *A Safer Bet* report [here](#).

In this document, we respond to Questions 1, 2, 3, 4, 5, 7, 11, 12, 13, 14, 16, 19, 20, 21, 25, 26, 27, 39, and 40.

### Background

- In any given year, one in four people will experience a mental health problem,<sup>1</sup> and over a lifetime this rises to nearly half the population<sup>2</sup>. However, we do not always know when we are unwell, or receive treatment. Over a third (36%) of people with a common mental disorder have never received a diagnosis, and 62% are not currently receiving treatment.<sup>3</sup>
- Common symptoms of mental health problems, like low motivation, unreliable memory, limited concentration and reduced planning and problem-solving abilities can make managing money significantly harder.<sup>4</sup>

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<sup>1</sup> McManus S et al. Adult psychiatric morbidity in England, 2007. Results of a household survey. NHS Information Centre for Health and Social Care. 2009.

<sup>2</sup> Mental Health Foundation. Fundamental facts about mental health. 2016.

<sup>3</sup> McManus S et al. Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016.

<sup>4</sup> Holkar M. Seeing through the fog. Money and Mental Health Policy Institute. 2017.

- People with mental health problems are three and a half times more likely to be in problem debt than those without, and half (46%) of adults in problem debt also have a mental health problem.<sup>5</sup>
- Mental health problems can impact the reasons why we gamble online, and make it harder to stay in control and cut down on the amount we gamble. Not being able to control gambling can lead to devastating financial losses and impact on our mental health and relationships.<sup>6</sup>
- Analysis of the Adult Psychiatric Morbidity Survey shows that problem gamblers are almost eight times more likely to attempt to take their own life than people who show no signs of problem gambling.<sup>7</sup>

## Summary

- There is significant evidence that protections for online gamblers need to be reformed. Many people have experienced a range of harms as a result of not being able to stay in control of online gambling. This includes devastating financial losses, as well as negative impacts on people's mental health and their relationships. Many people are unaware of the safer gambling tools offered by operators and current protections put too much focus on the individual to seek help.
- While gambling can be addictive both online and offline, the way that gambling sites and online games are designed can drive these harms. The design of games can often form a toxic relationship with common symptoms of mental health problems.
- Greater controls should be introduced on a universal basis to gambling sites and games to reduce this harm.
- Online adverts for gambling are highly pervasive, making it hard for people to reduce their gambling. Bonuses can draw people in and encourage them to continue to gamble.
- The Gambling Commission has been slow to adapt to changes in the industry, especially the growth in online gambling, and has consistently taken a cautious approach. It should be empowered to be more proactive, as well as reacting more quickly to emerging issues.
- The current redress system is failing those who have experienced gambling-related harm. A new independent ombudsman should be introduced with several key elements and built through learning from the Financial Ombudsman Service.

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<sup>5</sup> Holkar M. Debt and mental health: a statistical update. Money and Mental Health Policy Institute. 2019.

<sup>6</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>7</sup> McManus S et al. Adult psychiatric morbidity in England, 2007: results of a household survey. The NHS Information Centre for health and social care. 2009.

## Online protections - players and products

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

At the moment, the Gambling Commission has a set of provisions that online operators must follow to ensure social responsibility. This includes minimising the risk of customers experiencing gambling-related harm as a result of an interaction, and having to provide information on how to gamble responsibly and help for problem gambling. Gambling operators must also ensure that children and vulnerable adults are protected from harm or exploitation from gambling. However, from our research, we have found evidence of significant harm being experienced by many people with mental health problems as a result of the failures of existing protections:

- When it comes to information and support, many people are unaware of the safer gambling tools offered by gambling operators.
- Current protections put the focus on the individual to seek help, but this can be very difficult to do, particularly for those experiencing a mental health problem.

This suggests that online protections need to become much more effective in preventing harm.

### Evidence of harm

In nationally representative polling, we found that three in ten (28%) online gamblers who had experienced a mental health problem agreed that they are more likely than not to spend more than they can afford to lose when gambling online.<sup>8</sup> In a survey with our Research Community, many respondents had bet more than they could afford to lose and experienced financial problems as a result of online gambling.<sup>9</sup> Such spending can then have a knock-on effect on essential spending, such as groceries, or making debt repayments. Even small losses can be devastating for people with mental health problems, who are more likely to be on lower incomes,<sup>10</sup> or in problem debt.<sup>11</sup>

*“The addiction to load money then use it to bet, is like a hit of cocaine. Wasted hundreds of pounds and missed payments. Very depressing.”*

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<sup>8</sup> Money and Mental Health analysis of Populus online survey of 2,096 people, carried out 7-10 May 2020. Data is weighted to be nationally representative.

<sup>9</sup> One in four (24%) had experienced financial problems as a result of gambling online, and one in three (32%) had bet more than they could afford to lose. Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>10</sup> Bond N and D’Arcy C. Mind the income gap. Money and Mental Health Policy Institute. 2020.

<sup>11</sup> Holkar M. Debt and mental health: a statistical update. Money and Mental Health Policy Institute. 2019.

### Expert by experience

Not being able to control gambling can also have a negative impact on people's mental health. In nationally representative polling, a quarter (24%) of online gamblers who have experienced a mental health problem agreed that online gambling had been bad for their mental health.<sup>12</sup> Again, we found similar results in the survey with our Research Community.<sup>13</sup>

*"In the past, gambling has made me suicidal and extremely anxious."*

### Expert by experience

Problems with gambling can also affect people's relationships with loved ones, especially as the stigma around problem gambling can lead to people hiding their behaviour.

### **Problems with existing protections**

While operators are required to provide information about how to gamble responsibly, we found that many people are not aware of the tools to help customers do so. Research by the Gambling Commission showed that more than half (53%) of gamblers are unaware of self-exclusion and four in ten (42%) haven't heard of financial limits.<sup>14</sup> Operators are not the only actors who can play a role in helping people stay in control of their gambling; many financial service providers also offer tools such as gambling blocks. However, in national polling, just one in three (33%) online gamblers reported knowing what tools banks can offer to help them stay in control of gambling.<sup>15</sup>

Research Community members who have used these tools told us that they can be ineffective and have several drawbacks. For example, some respondents felt that cooling-off periods on limits, which prevent any changes to the limit for a period of time, are too short. In particular, respondents felt that it was too easy to move from one gambling operator to another after setting limits or self-excluding from one site. This is a significant issue as more than half (56%) of online gamblers have multiple accounts.<sup>16</sup>

*"Spending limits only work so far, as there are hundreds of ways to bet with different companies."*

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<sup>12</sup> Money and Mental Health analysis of Populus online survey of 2,096 people, carried out 7-10 May 2020. Data is weighted to be nationally representative.

<sup>13</sup> More than one in three (36%) respondents had become stressed or anxious because of gambling online and the same proportion had felt guilty about the way they gamble. Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>14</sup> Gambling Commission. Gambling participation in 2019: behaviour, awareness and attitudes. 2020.

<sup>15</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>16</sup> Gambling Commission. Gambling participation in 2019: behaviour, awareness and attitudes. 2020.

Expert by experience

*“It only takes 24 hours to increase the limits, so you can request the increase and move to another site then go back again.”*

Expert by experience

While there are provisions for providers to remotely identify and interact with customers and the Gambling Commission has recently consulted on how these can be improved, there is currently a significant responsibility on customers to know when to stop gambling and seek help. Our research found that it can be very difficult to take the first steps to seek help, and many people may avoid doing so. We heard from several Research Community members who felt that they would have experienced less harm had an operator stepped in earlier to help.

*“Having been so out of control, I would want somebody to step in. I wish somebody had with me years ago.”*

Expert by experience

*“Early intervention would have saved me wasting my thirties wasting tens of thousands of pounds.”*

Expert by experience

In summary, online protections need to become more effective as many people with mental health problems are currently experiencing harms as a result of online gambling and the current safer gambling tools are not widely used.

**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.**

One of the key findings from our report on online gambling was that, while symptoms of mental health problems can lead to people gambling and can make it harder to stay in control, the way that games are currently designed is exacerbating this. There should, therefore, be greater controls on online product design to reduce the harm identified in our response to the previous question. This should include the introduction of stake and prize limits.

Online games are often designed to be exciting and to keep people playing. This is achieved in part through the use of colours and noises which can make games more immersive and addictive. Designers of online games have a wider range of tools at their disposal compared to those designing offline games. This includes being able to speed up the game, although the

Gambling Commission has introduced some new rules to reduce this.<sup>17</sup> It is therefore not surprising that eight in ten (82%) Research Community respondents agreed that online gambling is more addictive than offline gambling.<sup>18</sup>

*“The site is colourful and often times mesmerising (especially the slots). There are offers to try other games for free, which is in their interest because that might just be your game of addiction.”*

Expert by experience

Players are nudged to continue gambling through time pressures and offers mid-game, while ‘near misses’ and bonuses can encourage those who have just lost money to spend more. These features can make it difficult for people with a mental health problem to stay in control. There are currently no mandatory stake limits online and the prizes on offer can often draw people in. It can sometimes be harder for people with mental health problems to process and weigh up information when unwell, which makes it difficult to assess the associated risks.

*“£500 [per] spin on roulette is a good example as you can bet up to £250k if you wanted to, every 30 seconds or less.”*

Expert by experience

*“You fantasize about how all your problems would magically be fixed if you win.”*

Expert by experience

These design choices can contribute to a feeling that the player is not gambling with real money, which in turn can lead to people spending more than they can afford. In our national polling, 40% of online gamblers who have experienced a mental health problem agreed that it doesn’t feel like they’re spending real money when they gamble online, compared to a still significant one in four (26%) of those who have never experienced a mental health problem.<sup>19</sup>

*“It’s too easy to lose your money, because you’re only pressing [a] button, you don’t actually have the cash in your hand.”*

Expert by experience

In conclusion, there should be greater controls on online product design. The design of games is exacerbating common symptoms of mental health problems and in other sectors, regulators are taking steps to ensure that online design does not mislead or cause harm to consumers.<sup>20</sup>

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<sup>17</sup> Gambling Commission. Consultation Response: Online games design and reverse withdrawals. 2021.

<sup>18</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>19</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>20</sup> For example the recommendation in the Woolard Review for the FCA to have guidance for digital design in the consumer credit sector. Financial Conduct Authority. The Woolard Review - A review of

This review, therefore, offers an opportune moment for online gambling to be made safer by design.

### **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?**

We believe that online operators should be required to protect all customers by default, rather than relying on customer action to enable opt-in controls. This is because of the current scope for harm that exists for online gamblers. People can easily deposit money and gamble at any time from any place. At the same time, our research suggests the nature of online gambling can make it harder to stay in control and to get help if needed. Introducing more consistent limits and controls across the sector can reduce harm to people moving between sites and increase consistency between offline and online gambling.

This should include placing default limits on the amount of spending over a time period, on deposits, and on the time spent gambling. Setting default limits would directly reduce harm and also act as useful friction, disrupting customers with mental health problems who are struggling to control online gambling before problems escalate further. The limits should be proportionate and set at levels that reduce harm without affecting the majority of customers who spend less on gambling. Customers who reach limits should be provided with information about support tools and services.

#### **Ensuring parity with offline gambling**

Firstly, there is a clear need to ensure parity in protections between offline and online gambling. In offline gambling stake limits were recently introduced for Fixed-Odds Betting Terminals, but no such limits exist online. The Government should ensure that any harms that are prevented offline should also be prevented online.

*“You shouldn't be able to bet £500 on a roulette spin, it's ridiculous... the local bookies are limited to £2 and that's bad enough as it is.”*

Expert by experience

#### **Helping online gamblers stay in control**

Secondly, one of the key drivers of harm that we identified in our research was the accessibility of online gambling. People can gamble at any time and can do so easily by using their phone,

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change and innovation in the unsecured credit market. 2021; and the CMA focusing on online choice architecture in its plans for 2021/2022. Competition and Markets Authority. Competition and Markets Authority Annual Plan 2021/22. 2021.

meaning that people with mental health problems can gamble when they are unwell and most vulnerable to harm. Nearly all (94%) Research Community respondents agreed that it is too easy to gamble at any time of day or night.<sup>21</sup>

*"I gamble online because it is easy and I don't have to go anywhere."*

Expert by experience

It can be difficult to stay in control of gambling when unwell. Common symptoms of mental health problems such as increased impulsivity and difficulty processing information can lead to people spending money without fully understanding the impact. Over half (53%) of Research Community respondents have gambled online during a period of poor mental health, and 85% agreed that it is harder to stay in control of gambling when unwell.<sup>22</sup> But it is not just people with mental health problems who feel like it isn't easy to stay in control of online gambling: a quarter (23%) of online gamblers without a mental health problem felt it is not easy to stay in control when gambling online, as well as a third (32%) of those with a mental health problem.<sup>23</sup> Adding in more controls to online gambling accounts would help those gamblers who feel unable to control their spending.

*"I don't feel like I am in real life somehow. I am just addicted to winning or just playing."*

Expert by experience

Greater controls would help ensure that people who gamble for problematic reasons are protected from harm. In our report, we found that common symptoms of mental health problems can lead to people gambling for the wrong reasons. This included seeing gambling as an escape from poor mental health, giving their mood a short-term lift, or treating gambling as a form of self-harm, seeking financial losses to confirm negative feelings about themselves. With the current lack of limits on online gambling accounts, there is a significant scope for harm. We also heard from Research Community respondents who had felt that gambling offered them a solution to financial problems. Symptoms of mental health problems can cause an unrealistic view of what gambling can offer and this can be reinforced by the design of gambling sites that offer significant prizes and encourage continued play.

*"Winning would be the only way out when I couldn't get out of bed."*

Expert by experience

*"Gambling is like believing in a fairy tale. That something will come along one [day] to make everything better and take all your troubles away."*

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<sup>21</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>22</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>23</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.



Expert by experience

### **Helping online gamblers who want to cut down on their gambling**

More limits would be of particular benefits to people seeking to cut down on gambling, especially those of us with mental health problems. Among Research Community respondents who had tried to cut down, just 6% felt doing so was easy, while 71% disagreed.<sup>24</sup> For some, this difficulty can be due to avoidance, a common coping mechanism for anxiety, which can lead to behaviours becoming entrenched and harder to address. For others, online gambling can feel like a dependency and thus people can be scared to cut down and miss out on potential financial winnings. As mentioned in our answer to Q1, many gamblers are unaware of the safer gambling tools that operators offer. Introducing greater controls can reduce the harm before people seek help. Limits would also offer operators an opportunity to provide appropriate support at an earlier stage.

### **Reducing inconsistencies across the sector**

Finally, the introduction of greater controls would reduce the harm that can result from inconsistencies across the online gambling sector. Having consistent limits across the sector would prevent people from quickly gambling significant sums after self-excluding from another operator. This would not eliminate this issue, and the Gambling Commission should look at other options to address this. This could be an area in which the financial services sector plays a crucial role, by providing their customers with tools such as a gambling block or offering support in response to signs of harm.

To summarise, there should be greater controls on online gambling accounts to prevent the harm being experienced by those unable to control their gambling and to bring greater consistency to the gambling sector.

### **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?**

In our report and throughout this consultation we have focused on the harms experienced by people with mental health problems. We believe that greater limits on online gambling should, however, be introduced on a universal basis.

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<sup>24</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

This is because mental health problems are both common - one in four of us will experience a mental health problem in any given year<sup>25</sup> – and underdiagnosed – more than one third of people experiencing a common mental disorder have never received a diagnosis.<sup>26</sup> Effective protection therefore cannot rely on people with mental health problems disclosing their condition to an online gambling operator.

And crucially, many of the harms we have identified will also be experienced by many other people who don't have a mental health problem. Bringing in safe limits for all is therefore a proportionate, preventative measure that would protect those who struggle to stay in control, without affecting most other players.

Introducing limits will bring additional bureaucracy for some, although the majority of gamblers do not spend significant sums.<sup>27</sup> Customers should be able to request a higher limit and these should only be allowed if they can afford this based on reliable evidence such as bank data or credit checks. These customers should still be set limits and the higher limits should be regularly reviewed. This combination of safe limits and affordability checks should make the online gambling environment significantly safer, without requiring checks for most players.

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

Gambling companies routinely collect a wealth of data on customer behaviour, and many people with mental health problems feel that this should be used to identify signs of vulnerability and offer proactive support. We believe that gambling operators should be required to use their data capability to intervene early when a customer shows signs of a problem. The Gambling Commission recently consulted on proposed changes to the Social Responsibility code that would put more responsibility on operators.<sup>28</sup> These changes should be introduced as a priority to help reduce gambling-related harm.

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<sup>25</sup> McManus S et al. Adult psychiatric morbidity in England, 2007: results of a household survey. The NHS Information Centre for health and social care. 2009.

<sup>26</sup> McManus S et al (eds.) Mental health and wellbeing in England: Adult Psychiatric Morbidity Survey 2014. NHS Digital. 2016. Covers England only.

<sup>27</sup> Forrest D and McHale I. Analysis of play among British Online Gamblers on Slots and other Casino-style Games. Gamble Aware. 2018.

<sup>28</sup> Gambling Commission. Remoted Customer Interaction - Consultation and Call for Evidence. 2020.

For our report, we asked Research Community respondents what they would want operators to do in five scenarios that could be indicators of problem gambling:

- gambling for long periods without a break
- spending more money than normal
- repeatedly turning deposit limits on and off
- gambling at unusual times
- betting on unusual things.

In each scenario, more than nine in ten respondents wanted the operator to take action, and many felt that immediate robust action was often most appropriate. In two scenarios - gambling for long periods without a break and spending more money than normal - a majority (59% and 57% respectively) said they would want the operator to take strong, immediate action, such as freezing their account. In two other scenarios, the option of immediate action was the most popular (selected by 46% and 43%), with less interventionist options such as the offer of practical support also supported (by 34% and 30% respectively).<sup>29</sup>

*"I would want them to have some sort of welfare triage system to direct me to appropriate help and support, and for them to immediately freeze my account in the meantime."*

Research Community

To intervene most effectively, operators should do the following:

- Frame interventions as an offer of support, rather than a judgement of behaviour.
- Explore the benefits of personalisation: allowing customers to specify factors such as the trigger for intervention, adding personal messages that may be more salient and specifying preferred communication channels.
- Develop and test messaging with people who have experienced gambling problems
- Ensure that customer-facing staff understand mental health problems and can respond appropriately. Staff must be equipped to refer customers to mental health, debt advice and gambling support services, given the close relationship between these issues.
- Monitor customer behaviour post-intervention, and take further action if there are signs that problems persist.

*"I would want the company to reach out to me personally, not send me a blanket "Are you gambling too much?"*

Expert by experience

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<sup>29</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

Operators should also make it easier for their data to be used by appropriate independent researchers to better understand problem gambling and how to prevent harm.

**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?**

The Behavioural Insights Team on behalf of Gamble Aware has over the last few years conducted research, guided by behavioural science, into the effectiveness of safer gambling tools provided by operators. In their report on how to reduce risky play online, they found that there was much more friction to finding safer gambling tools than for making deposits, and they recommended that these tools be easier to find. They also recommended that self-imposed limits should be difficult to change in order to reduce any harm when a gambler is in a 'hot state' and less likely to think about any potential risks of turning off limits.<sup>30</sup> In a newer report on deposit limits, they found that the way that dropdown menus for deposit limits are currently designed has an 'anchoring effect' leading to people to set higher limits than they would otherwise. They discovered that either including a lower top value or using a free text box could reduce the limits set.<sup>31</sup>

In our own research, we have worked with people with lived experiences of both mental health problems and gambling-related harm to consider how operators can best design tools and interventions. As explored in our answer to Q5, one of the key steps that operators can take is to involve people with lived experience in the design of the tools so that they work most effectively for people going through similar experiences. Tools and interventions should be framed as supportive and include signposting to external organisations. Operators should also explore the use of personalisation, such as allowing people to set their own messages. In previous research, we have also explored how financial services providers could use data to identify financial difficulty and how to design interventions. Many of the insights from this work - such as ensuring there is a pathway to support when automated messages are used - could also inform how operators design their tools and interventions.<sup>32</sup>

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<sup>30</sup> The Behavioural Insights Team. Can behavioural insights be used to reduce risky play in online environments? 2018.

<sup>31</sup> The Behavioural Insights Team. Applying behavioural insights to design better safer gambling tools. Part 1: Anchoring. 2021.

<sup>32</sup> See Alpin K and Holkar M. Data Protecting: Using financial data to support customers. Money and Mental Health Policy Institute. 2019.

## Advertising, sponsorship and branding

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

The majority of the money spent on gambling marketing is for online spaces.<sup>33</sup> It is perhaps unsurprising then that in the research with our Research Community we found that many people felt inundated with adverts online. Three-quarters (73%) of Research Community respondents said they always or often see a gambling advert when they go online, and 85% felt it was impossible to avoid seeing online gambling adverts.<sup>34</sup>

*“The online adverts are horrendous, there feels like there is no escape at times.”*

Expert by experience

We heard from Research Community members about how it can be hard to resist gambling adverts when unwell. This can be facilitated by the short journey from seeing an advert to making a bet online, much shorter than any equivalent offline. This can make it very difficult for people experiencing increased impulsivity as a result of their mental health problem to stay in control of their spending. Our findings correspond to research by the Gambling Commission that found that half (52%) of online gamblers with a social media account gambled after seeing an advert on social media.<sup>35</sup>

*“I find it really hard to resist the pop up adverts for gambling online. It's really tempting to click and have a go.”*

Expert by experience

Adverts can be particularly problematic for people who are trying to cut down on their gambling. Several Research Community members told us they had found it very difficult to stop gambling while still being exposed to gambling adverts in a range of online spaces. Seeing adverts during the difficult period of trying to cut down can lead to people returning to gambling.<sup>36</sup> People who have taken the decision to cut down on gambling are likely to have done so after experiencing some form of gambling-related harm and as such should be considered vulnerable to further harm. While there are tools designed to block gambling adverts

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<sup>33</sup> GambleAware. Gambling companies spend £1.2 billion marketing online, five times more than on television ads. 2018.

<sup>34</sup> Holkar M and Lees C. A safer bet. Money and Mental Health Policy Institute. 2020.

<sup>35</sup> Gambling Commission. Gambling participation in 2019: behaviour, awareness and attitudes. 2020.

<sup>36</sup> Hing, N et al. Do advertising and promotions for online gambling increase gambling consumption?. An exploratory study. International Gambling Studies 2014; 14, 3; 394-409.

online, they are limited in number and effectiveness, and adverts on television appear during a range of programmes.

*“Facebook adverts cannot be turned off for gambling, only reported as spam, so even after you've tried quitting you still get bombarded with them.”*

Expert by experience

As part of this review, the government should closely examine the role that advertising and marketing plays in driving gambling-related harm, with a specific focus on vulnerable customers, including those experiencing mental health problems. It should also consider whether the Gambling Commission and Advertising Standards Authority have sufficient powers to deal with harm in this area and, if not, address this. Online gambling adverts should also be a key focus of the government's Online Advertising Programme.

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

Although our research did not specifically focus on safer gambling messages in adverts, it was raised by some Research Community members. There was a feeling that such messages can be ineffective as they put the focus on the individual and rely on them to recognise the problem and seek help, or can even be counter-productive. As we have explored in response to previous questions, this can be very difficult for people to do, especially when problems have become entrenched.

*“This slogan of “When the fun stops, stop” is ridiculous ... No one is going to recognise that it's time to stop until it's too late.”*

Expert by experience

*“The current slogan “when the fun stops, stop” is rubbish. it flashes up really quickly a lot of the time, and the word you can see the clearest is FUN. Seems very counter-intuitive.”*

Expert by experience

**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?**

In our research, many Research Community members informed us that offers, such as free spins and bonuses, can be particularly difficult to resist. They described how these offers can draw people onto the sites and encourage them to play a range of addictive games, leading to

more problematic behaviour. The Behavioural Insights Team found that offers such as free bets are designed to get people to sign up and sometimes encourage longer and riskier gambling.<sup>37</sup>

*“There are offers to try other games for free, which is in their interest because that might just be your game of addiction.”*

Expert by experience

There was less experience of VIP schemes among our Research Community, but similar risks were identified such as being VIP schemes being very persuasive and drawing people in to continued gambling.

*“Getting given more money to spend gambling, but always with the catch that it had to be wagered multiple times before you'd get it. Often would win lots with the free money but by the time you'd wagered it all, you'd have lost the bonus and the original money deposited.”*

Expert by experience

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

We did not focus specifically on gambling sponsorship in sports in our research but several Research Community respondents raised the problems with having gambling sponsorship and adverts in sports. As we have set out in Q11, it can be very difficult to cut down on gambling and the prevalence of adverts can make this even harder.

*“I find it hardest when I want to watch sport but too many gamble ads!”*

Expert by experience

#### **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?**

In the research we conducted with our Research Community, we found no evidence of people turning to a black market after self-excluding from mainstream operators.

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<sup>37</sup> The Behavioural Insights Team. Can behavioural insights be used to reduce risky play in online environments? 2018.

**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?**

The evidence from our research and other investigations make clear that significant harm is occurring and that efforts from the Gambling Commission to change operator behaviour and raise standards have been ineffective. As explored further in Q20, the Gambling Commission does have significant powers to introduce new requirements for operators. But to tackle some of the common harms we have identified, through measures such as introducing new stake limits, enhanced powers through updated legislation are required.<sup>38</sup> While other regulators rightly also have limits on what steps they can take without changes to legislation, many - including the FCA - have greater scope to take action when there is evidence of harm.<sup>39</sup> To enable this, the Government should give the Gambling Commission more flexible regulatory powers that would allow it to quickly introduce new changes when necessary. This is particularly crucial for regulators dealing with rapidly evolving online environments.

In the last year, the National Audit Office (NAO), the Public Accounts Committee (PAC) and a Lords Select Committee have all published reports on the current powers of the Gambling Commission and whether it has been able to fulfil its duties. They each came to a similar conclusion that the Gambling Commission does not have enough data and insight on gambling-related harms, and does not have adequate enforcement powers. Ultimately, they argued that the Gambling Commission has been slow to adapt and react to changes in the sector, especially the increase in online gambling.<sup>40</sup>

The recent case of Football Index has highlighted how the Gambling Commission has struggled to deal with new and emerging online products.<sup>41</sup> This compares to how other regulators have adapted to changes within their market. For example, after increasing public attention on unregulated 'Buy Now, Pay Later' products, the FCA launched a review of the unsecured credit

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<sup>38</sup> National Audit Office. Gambling regulation: problem gambling and protecting vulnerable people. 2020; Public Accounts Committee. Gambling regulation: problem gambling and protecting vulnerable people. 2020.

<sup>39</sup> For example the FCA introducing tougher rules for Payday Loans in 2014, Ofgem introducing protections for customers who have prepayment meters installed under warrant in 2017 and Ofcom introducing rules to make it easier to switch provider without having to call up in 2019.

<sup>40</sup> National Audit Office. Gambling regulation: problem gambling and protecting vulnerable people. 2020; Public Accounts Committee. Gambling regulation: problem gambling and protecting vulnerable people. 2020; The Lords Select Committee on the Social and Economic Impact of the Gambling Industry. Gambling Harm—Time for Action. 2020.

<sup>41</sup> Wood G. Football Index: Gambling Commission was warned about firm in January 2020. The Guardian. 2021. Accessed 22/03/2021 - <https://www.theguardian.com/football/2021/mar/18/football-index-gambling-commission-warned-january-2020>



market to gather evidence on the harms, which led to the announcement that all such products would be regulated.<sup>42</sup>

This shows that the Gambling Commission is not alone among regulators at having to deal with a changing market, where more and more services are being provided online. In our report, *Safety Net*, we looked at ways that regulators could better respond to digital changes and innovation in a sector, and many of them apply to the Gambling Commission.<sup>43</sup> Currently there is some difference between the regulation of online gambling and offline, with the existence of limits on Fixed-Odds Betting Terminals. The Gambling Commission should guarantee that any harms that are prevented offline are also prevented online. To achieve this, it should ensure that existing regulation is translated and transformed so that consumer protections work for online gambling. The government should then give the Gambling Commission adequate powers to fill in any remaining gaps.

More generally, in any large and fast-changing sector like gambling, there are likely to be issues that regulators identify but do not have the powers to tackle. The Gambling Commission could adopt a similar approach to that taken by the FCA with the Woolard Review, through which the FCA identified new harms but believed it did not currently have adequate powers to deal with them.<sup>44</sup> The results of such exercises should then be used to inform discussions with its sponsoring department, DCMS, in order to introduce new regulatory powers.

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

As our answer to Q19 highlighted, the Gambling Commission has been limited in its ability to adapt to changes within the sector, in part because of its current powers. However, the Gambling Commission does currently have considerable powers that should be better put to use to allow it to be bolder and more anticipatory.

The Gambling Commission needs to adopt a more anticipatory stance so that it can spot new emerging harms, like Football Index, and adapt quickly through existing powers. The Gambling Commission should focus on developments in the design of online games so that it can proactively intervene to avoid new harms. Both the NAO and PAC see improvements to data collection and being more proactive as important to ensuring the Gambling Commission best

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<sup>42</sup> HM Treasury. Buy-now-pay-later products to be regulated. 2021. Accessed 23/03/2021 - <https://www.gov.uk/government/news/buy-now-pay-later-products-to-be-regulated>

<sup>43</sup> Holkar M, Lees C, and D'Arcy C. *Safety Net*. Money and Mental Health Policy Institute. 2021.

<sup>44</sup> Financial Conduct Authority. *The Woolard Review - A review of change and innovation in the unsecured credit market*. 2021.

protects customers from harm.<sup>45</sup> As part of this, the Gambling Commission should learn from the FCA's Innovation programme to understand how it can best anticipate changes within the gambling sector. This includes further developing its data collection and analysis capability, and the Gambling Commission should join cross-regulatory forums such as the Digital Regulation Cooperation Forum to pool the resources and expertise of other regulators.<sup>46</sup>

The findings of the NAO and PAC suggest there are cultural factors within the Gambling Commission which limit its effectiveness in preventing harm, concluding there is a cautious approach within the organisation that needs to be reformed.<sup>47</sup> In several areas, the Gambling Commission has been slow to act, saying it required adequate evidence of harm, while that harm continued to grow. The timing of this review and the departure of the Gambling Commission's CEO provides an opportunity to change the culture. The government should encourage a bolder regulatory culture at the Gambling Commission so it feels empowered to take decisive action. It is better for the Gambling Commission to be more proactive than cautious, as the risks from not acting are much higher than the risks of acting too early.

**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?**

Changing the fee system to give the Gambling Commission more flexibility would allow it to be more anticipatory and reactive. This is something that the Lords Select Committee on the Social and Economic Impact of the Gambling Industry recommended in a recent report.<sup>48</sup> The government should ensure funding arrangements for regulators that adjust based on sector data, so that funding is proportionate to the make-up and size of the sector. Having more flexible funding could allow the Gambling Commission to develop better data systems and hire people with the necessary skills. Greater flexibility would allow the Gambling Commission to treat gambling more like other public health issues, with a greater emphasis on prevention.

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<sup>45</sup> National Audit Office. Gambling regulation: problem gambling and protecting vulnerable people. 2020; Public Accounts Committee. Gambling regulation: problem gambling and protecting vulnerable people. 2020.

<sup>46</sup> Competition and Markets Authority. The Digital Regulation Cooperation Forum. 2021. Accessed 26/03/2021 - <https://www.gov.uk/government/collections/the-digital-regulation-cooperation-forum>

<sup>47</sup> National Audit Office. Gambling regulation: problem gambling and protecting vulnerable people. 2020; Public Accounts Committee. Gambling regulation: problem gambling and protecting vulnerable people. 2020.

<sup>48</sup> The Lords Select Committee on the Social and Economic Impact of the Gambling Industry. Gambling Harm— Time for Action. 2020.

## Consumer Redress

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

A new redress system needs to be introduced to the gambling sector to ensure that those who have been let down by a gambling operator can get the compensation they deserve.

As we covered in our answer to Q1, many people with mental health problems are gambling more than they can afford and this is having a negative impact on their finances, mental health and relationships. The way that online gambling sites are designed is a key factor in this, and operators could be doing more to identify problems early and step in to avoid such harm. It can also be difficult to seek help when experiencing gambling-related harm and the current design of the redress system is not making it any easier.

There are several Alternative Dispute Resolution services available for the gambling sector. Despite this, the Gambling Commission found that the existing redress system does not work effectively for many consumers, who don't know where to turn to and with varying quality across the ADR service providers.<sup>49</sup>

The existing schemes also do not deal with cases in which an operator has not fulfilled the social responsibility codes of practice set by the Gambling Commission, for example, allowing someone displaying signs of problem gambling to continue to gamble. This lack of redress for many customers has been highlighted by the NAO, the PAC and the Lords Select Committee on the Social and Economic Impact of the Gambling Industry.<sup>50</sup> Recent examples of operators returning money to customers after the involvement of a newspaper<sup>51</sup> do show, however, that operators accept responsibility when they fear the case will be made public. A new formal redress system which deals with such cases is therefore essential.

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<sup>49</sup> Gambling Commission. Complaints processes in the gambling industry. 2017.

<sup>50</sup> National Audit Office. Gambling regulation: problem gambling and protecting vulnerable people. 2020; Public Accounts Committee. Gambling regulation: problem gambling and protecting vulnerable people. 2020; The Lords Select Committee on the Social and Economic Impact of the Gambling Industry. Gambling Harm—Time for Action. 2020.

<sup>51</sup> Morley K. 'I gambled away £10k while in a psychotic state and now I'm homeless': Has a company treated you unfairly? Our consumer champion, Katie Morley, is here to help. The Telegraph. 2021. Accessed 26/03/2021 -

<https://www.telegraph.co.uk/money/katie-investigates/gambled-away-10k-psychotic-state-now-homeless/>; Morley K. 'William Hill made my brain-damaged mother a VIP and she gambled away £88k'. The Telegraph. 2020. Accessed 26/03/2021 -

<https://www.telegraph.co.uk/money/katie-investigates/william-hill-made-brain-damaged-mother-vip-gambled-away-88k/>.

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

One model that has been put forward, including by the Lords Select Committee, is the Financial Ombudsman Service.<sup>52</sup> There are a few key principles that an ombudsman should have in order for it to work best for consumers, many of which the Financial Ombudsman Service has:

- It should be independent: The Gambling Ombudsman should not have any connection to operators and its decision should be impartial.
- It shouldn't just compensate for financial harms: The Financial Ombudsman Service considers non-financial harms in its decisions. Gambling can have a strong impact on people's mental health and relationships and this should be taken into account.
- It should take a considerate approach to cases: The Financial Ombudsman Service asks questions about a person's situation at the time of the incident so they can consider different factors. Staff for a gambling ombudsman should be trained to ask such questions and trust what the consumer is saying.
- It should be designed with vulnerable people in mind: Many of the people who will use a gambling ombudsman will have experienced harm. The service should be designed with their needs in mind by involving people with lived experience in its development.
- It should be easy to access and navigate: The Financial Ombudsman Service requires banks to include its contact details in letters sent to customers about the bank's decision. Any website for the Gambling Ombudsman should be easy to navigate and find relevant information.
- It should be efficient and provide expectation management: Ombudsman services can often have long processes which can lead to people dropping off. The Gambling Ombudsman should ensure it adequately and regularly communicates how long the process will take. It should also provide information on what users will need at hand.
- It should consider current rules and regulations: The Gambling Ombudsman should consider the range of rules, regulations and best practice and interpret how they apply in each individual case.

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<sup>52</sup> The Lords Select Committee on the Social and Economic Impact of the Gambling Industry. Gambling Harm—Time for Action. 2020.

**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?**

While there are some reasonable concerns around providing financial compensation to gamblers, these should not be a reason for preventing people from being compensated where the operator failed in their duty to prevent harm. To mitigate possible risks, the Gambling Ombudsman should provide different options for how the compensation could be paid, including the option to spread the sum over a period of time. It could also build in options for third party access to allow the sum to go to a trusted party or to give a third party oversight of how the money is spent. The Ombudsman should also signpost anyone who has come to it after experiencing gambling-related harm to external organisations who would be able to help them in their recovery.

### **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.**

As this review and our response has recognised, much of the required changes to the Act are to deal with the growth in online gambling and the slow response of regulation so far. While it is important that there is parity between protections for offline and online gambling, the Gambling Commission should ensure that there is not a displacement of problem gambling from online to offline. This could include ensuring that principles of design in offline gambling are up to date.

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

From our previous research, we know that many people with mental health problems (and those on low-incomes) prefer to use cash over cashless payments.<sup>53</sup> This is because paying with cash can help them keep track of and limit their spending. For example for people experiencing increased impulsivity, having cash can help them to better track and control how

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<sup>53</sup> Lees C. Money and Mental Health submission to HM Treasury’s call for evidence: Access to Cash. Money and Mental Health Policy Institute. 2021.



much money they spend. For many people, payments with cards or other cashless methods can feel less tangible and money can be taken out of their accounts at a different time, making it harder to keep track of spending. Permitting cashless payments for land-based gambling could, therefore, have the effect of making it hard for some to stay in control of their spending.

*“Limits your spending, makes you realise what you have left to spend. Keeps you in control of your money.”*

Expert by experience

*“Having cash in my purse shows me how much I have to spend, whereas via my bank card online I have to check my bank’s app to get an up to date balance.”*

Expert by experience

One potential benefit of permitting cashless payments is the potential for gambling blocks offered by financial service providers to help people stay in control. While gambling blocks provided by banks do not prevent customers from withdrawing cash which could then be used to gamble in-person, blocks could stop the customer from gambling with their card. This additional friction or delay could reduce or prevent harm for those who have tried to stop gambling. Not all financial service providers currently provide a gambling block and those that do, offer different versions, with varying degrees of friction. Financial service providers should, therefore, continue to look at how they can best support their customers who want to stay in control of their gambling.