

HOUSE OF LORDS SELECT COMMITTEE REPORT: "GAMBLING HARM - TIME FOR ACTION"

LIST OF CONCLUSIONS AND RECOMMENDATIONS

Introduction

1. We hope that our recommendations will make gambling safer for all, but no less enjoyable for those who do participate safely. (Paragraph 7)

Implementation of this report

2. All three main UK political parties, and the Scottish National Party, pledged in their election manifestos to reform the law on gambling. Although they frame their proposed policies differently, it is clear that all four parties believe that major changes to the law on gambling are needed. We hope that the Government, in making good on its manifesto undertaking, will urgently give effect to our recommendations, and that they will receive all-party support. (Paragraph 27)
3. A few of our recommendations can be implemented only by primary legislation, but most need only secondary legislation, or changes in the Gambling Commission's licence conditions and codes of practice, or in the way it exercises the powers it already has. There is no need for these to wait until an opportunity for primary legislation arises. (Paragraph 28)

The gambling industry: structure, development and current picture

Offline gambling

4. We recommend that the Government should reinstate the triennial reviews of maximum stake and prize limits, and they should be extended to include both gaming machines and online gambling products. Consultation for the next review should begin before the end of this year, with conclusions drawn and action taken by the middle of 2021. (Paragraph 101)
5. The Government should forthwith undertake the assessment of casino regulations which it promised would take place in 2014, and apply the same regulations to all casinos, regardless of when they opened. (Paragraph 109)
6. The Gambling Commission should work with bookmakers to create a protocol to ensure adequate supervision and staffing during opening hours, taking into consideration the size, lay-out and turnover of individual premises. (Paragraph 118)

Online gambling

7. The gambling industry continually offers a variety of products to consumers, including some which can be highly addictive. The Gambling Commission should establish a system for testing all new games against a series of harm indicators, including their addictiveness and whether they will appeal to children. A game which scores too highly on the harm indicators must not be approved. (Paragraph 175)
8. We recommend that the Government should work with the Gambling Commission to establish a category system for online gambling products. (Paragraph 185)
9. The Government and the Gambling Commission should use the online product categories to set stake limits for online gambling products. (Paragraph 186)
10. To ensure that the implementation of online stake limits does not lead to increased unregulated offshore gambling, the Government and Gambling Commission must work with payment providers and banks to establish a scheme to block payments to such operators. (Paragraph 189)

11. We recommend the equalisation of speed of play and spin, so that no game can be played quicker online than in a casino, betting shop or bingo hall. (Paragraph 193)

Regulation

Gambling Commission

12. The Government should work with the Gambling Commission to devise a new funding structure in order to provide it with more flexibility and allow it to react and adapt to fast changing regulatory requirements. (Paragraph 201)
13. Section 22 of the Gambling Act should be amended as follows:
 - paragraph (b) should be amended to provide that the Commission should not permit gambling unless it believes that to do so will be consistent with the licensing objectives;
 - a new paragraph should be added making the identification and prevention of potential and actual harm a third aim of the Commission. (Paragraph 205)
14. Fines currently imposed and penalties agreed by the Gambling Commission do not make a sufficient impact on large corporations. They should reflect not just the seriousness of the offence but the size of the offender. In the case of repeat offences or other extreme circumstances the Commission should demonstrate much greater willingness to exercise its power to withdraw an operator's licence. (Paragraph 227)
15. The Government should conduct a triennial review of the work of the Gambling Commission, taking evidence from a wide range of interested persons and bodies, and prepare a report to Parliament on the past performance of the Commission, on lessons to be learned for the future, and on any changes which may be needed to its constitution or to the law governing it. (Paragraph 239)

Licensing of affiliates

16. We recommend that affiliates should be licensed by the Gambling Commission before they can enter into contracts with gambling operators, and that operators should not be permitted to enter into contracts with unlicensed affiliates. (Paragraph 250)

The house edge

17. Licence conditions should require the proportion of the stake retained by the house to be displayed prominently and clearly, in simple terms, on each gaming machine in all gambling premises, and in remote gambling. (Paragraph 254)

Regulation by local authorities

18. The Act should be amended to give licensing committees deciding on the licensing of premises for gambling the same powers as they already have when deciding on the licensing of premises for the sale of alcohol. (Paragraph 261)

Gambling-related harm

The scale of the issue

19. We recommend that the British Gambling Prevalence Survey be reinstated as a first step towards understanding how gambling and gambling prevalence are changing in the UK. (Paragraph 271)

20. The Government should commission a longitudinal survey to trace how and why individuals become problem gamblers, the actions they take, the treatment they receive, and the outcomes associated with problem gambling. (Paragraph 276)

A health issue

21. We believe that, despite the symbolic value of a transfer of primary responsibility for gambling from DCMS to DHSC, there would not be any practical benefit from such a transfer, and there might be disadvantages. DCMS should continue to be the department with primary responsibility. (Paragraph 293)
22. DCMS, like the Gambling Commission, has seldom been proactive, and sometimes has been more obstructive than reactive, as in the case of lowering the maximum stake of FOBTs, where it was supported by the Treasury. The failure to take action on a mandatory levy, which we discuss in Chapter 8, is another example. (Paragraph 294)
23. A decision to undertake a major review of gambling and of the gambling industry came about only because, with a general election looming, political parties were driven to give undertakings to do something which would satisfy electors. The election is now six months behind us, but nothing has happened and no dates have been set. We expect DCMS, as the owner of the policy for gambling, to take this forward with some urgency. This report, the evidence on which it is based, and the recommendations we make, should make for a solid foundation. (Paragraph 295)
24. In exercising their responsibilities, DCMS Ministers and officials should give much greater priority to gambling, and in particular to measures which DCMS, other departments or the Gambling Commission could take to minimise gambling-related harms. (Paragraph 296)

Suicide

25. The seven-yearly Adult Psychiatric Morbidity Survey included questions on gambling in 2007, but not in 2014. The 2021 Survey should again include questions on gambling, and the prevalence of suicidal tendencies linked to gambling. (Paragraph 301)
26. The Notification of Deaths Regulations 2019 should be amended to include in the list of information which doctors are required to provide to coroners a requirement, when a doctor suspects that a death by self-harm was gambling related, to inform the coroner of this. (Paragraph 306)
27. Coroners' offices should keep a record of such information and forward it at intervals to the Ministry of Justice, which must collate it and keep a list of the numbers of deaths by self-harm which doctors suspect were gambling related. The numbers of such deaths, but not details of individual deaths, should be publicly available. (Paragraph 307)
28. Guidance should be issued to doctors that they should be alert to asking patients who present with symptoms of anxiety and/or depression whether they have any gambling problems, and if so to offer them advice about where they should seek specialist help. (Paragraph 310)

Affordability checks

29. The Gambling Commission must amend its Formal Guidance for Remote Gambling Operators to define the minimum steps which operators should take when considering customer affordability, and to make clear that it is for the operator to take those steps, and any necessary additional steps, which will enable them to identify customers who are betting more than they can afford. (Paragraph 326)
30. DCMS and the Gambling Commission should without delay contact the Information Commissioner's Office and agree a procedure, consistent with the GDPR, allowing operators to

share with all other operators the information they derive from affordability checks on individuals. (Paragraph 331)

31. It should be a condition of gambling licences that where an operator's affordability check throws doubt on whether an individual can safely gamble at the rate they have been doing, this information should be shared with all other licensed gambling operators, which will be bound by it in the same way. (Paragraph 332)
32. We recommend that the banks should work together with UK Finance to create an industry-wide protocol on blocking gambling payments, with at least a 48 hour cooling off period. (Paragraph 339)
33. The Gambling Commission, the Betting and Gaming Council, and UK Finance should work with the Information Commissioner's Office to create a consistent industry-wide approach on the sharing of customers' financial data for the purpose of affordability checks. (Paragraph 342)

VIP schemes

34. The Gambling Commission must closely monitor the working of the interim measures for the regulation of VIP schemes while it consults urgently on changes to the LCCP for the permanent regulation of such schemes. (Paragraph 360)
35. The licence conditions for gambling operators must be amended to require them to undertake a thorough affordability and source of funds check before admitting any new customer to a VIP scheme (however it may be called). Such customers must be at least 25 years old. (Paragraph 361)
36. It should be a condition of an operator's licence that the salaries and bonuses of employees of the operator, its subsidiaries or affiliates should not in any way depend on the length of time or frequency that a customer they have had personal contact with gambles, or the amount spent or lost, or the profit made by the operator from that customer. (Paragraph 362)

Self-exclusion

37. Licence conditions must require every operator who has been notified, whether through GAMSTOP or otherwise, of an individual's self-exclusion, not to send any communications not required by law to that individual during the period of self-exclusion, and thereafter to do so only if the individual takes steps to have the self-exclusion removed. (Paragraph 371)

A Duty of care

38. The law should be amended to make an operator who contravenes provisions of the licence conditions and social responsibility codes liable to an action for breach of statutory duty at the suit of a customer who has suffered loss as a result of that contravention. (Paragraph 389)

Disputes between customers and operators

39. We recommend the setting up of a statutory independent Gambling Ombudsman Service, modelled on the Financial Ombudsman Service, to settle disputes between gambling operators and gamblers. Membership of the service should be a condition of the grant of an operator's licence. (Paragraph 413)

Children and young people

Loot boxes

40. We recommend that Ministers should make regulations under section 6(6) of the Gambling Act 2005 specifying that loot boxes and any other similar games are games of chance, without waiting for the Government's wider review of the Gambling Act. (Paragraph 446)
41. We recommend that section 3 of the Gambling Act 2005 should be amended to give Ministers a power, analogous to that in section 6(6), to specify by regulations that any activity which in their view has the characteristics of gambling should be treated as gambling for the purposes of the Act. (Paragraph 449)

Underage gambling and problem gambling

42. The Gambling Commission and local trading standards officers should undertake regular age test purchases and visits in all land-based gambling venues such as betting shops, amusement arcades and National Lottery retailers, and develop an appropriate age testing scheme for online gambling operators. (Paragraph 454)

Minimum age for gambling

43. The minimum age at which an individual can buy any National Lottery product should be raised to 18. (Paragraph 461)
44. The minimum age at which an individual can take part in any online gambling should be raised to 18. (Paragraph 473)

Children at racecourses

45. The Gambling Commission and local trading standards officers should undertake more frequent age verification tests, and should do so at all racecourses across the country, not merely at large meetings. The Gambling Commission should use the full range of enforcement action available to it, including large fines, licence reviews and revocation for those bookmakers repeatedly allowing underage individuals to place a bet. (Paragraph 477)

Advertising

Effect of advertising

46. The Government should commission independent research to establish the links between gambling advertising and gambling-related harm for both adults and children. (Paragraph 494)

Sport and advertising

47. Gambling operators should no longer be allowed to advertise on the shirts of sports teams or any other part of their kit. There should be no gambling advertising in or near any sports grounds or sports venues, including sports programmes. (Paragraph 524)
48. These restrictions should not take effect for clubs below the Premier League before 2023. A similar flexibility should be allowed in the case of other sports. (Paragraph 525)
49. These restrictions should not apply to horseracing or greyhound racing. (Paragraph 526)

Bet to View

50. The social responsibility code of practice must be amended to prohibit licensees from offering bet to view inducements, such as making the watching of a sport conditional on having an account with a gambling operator or placing a bet with an operator. (Paragraph 530)

51. The consequence of this will be that the Football Association, any other body with the rights to show football matches, and any body with similar rights in relation to other sports, will no longer be able to sell those rights to licensed gambling operators. We hope that they will see the wisdom of not attempting to sell those rights to unlicensed operators. (Paragraph 531)

Direct marketing

52. Advertisements which are objectively seen as offering inducements to people to start or to continue gambling, or which create a sense of urgency about placing bets, should be banned. The Advertising Standards Authority and the Gambling Commission must act together to police this ban. (Paragraph 535)

53. The licence conditions should be amended to prohibit operators from sending communications offering inducements to bet to individuals, or identifiable groups of individuals, unless they have agreed to take part in VIP schemes (by whatever name these are called) which satisfy the conditions currently in force or any stricter conditions which are imposed. (Paragraph 541)

Research, education and treatment

Funding of research, education and treatment

54. We recommend that Ministers should forthwith exercise their powers under section 123(1) of the Act to require the holders of operating licences to pay to the Gambling Commission an annual levy sufficient to fund research, education, and treatment, including treatment provided by the NHS. (Paragraph 557)

55. When considering the options for calculating the mandatory levy under section 123(2) of the Act, DCMS officials should devise a formula requiring companies offering potentially more harmful gambling products to pay a correspondingly higher proportion of the levy. (Paragraph 560)

GambleAware

56. GambleAware must correct the current anomalous system of funding treatment so that charities providing treatment are free to raise money from other sources without imperilling their current funding. (Paragraph 574)

Research

57. We do not believe that the grant giving charity proposed and set up by Lord Chadlington's Committee, largely funded by the industry on a voluntary basis, will be seen to be sufficiently independent for its research to be any more trusted than research commissioned by GambleAware. (Paragraph 589)

58. We recommend that the Government should work closely with UKRI and ESRC who can advise on a structure for the commissioning of gambling related research, funded by the mandatory levy, which would be independent of industry involvement and would be understood to be so by researchers and others. (Paragraph 594)

59. Gambling companies should make freely available to researchers, and to those commissioning research, data sets with the information they have about those gambling with them online, and their communications with them (anonymised if necessary). Similar information in relation to those gambling offline should also be provided if it is available. (Paragraph 598)

Education

60. The Government should commission an assessment of the long-term impact of teaching secondary school children about the risks related to gambling. When visiting schools, Ofsted should consider whether they have an adequate policy on the teaching of gambling-related harm. (Paragraph 606)

Treatment

61. Problem gambling is a common mental health disorder, and the NHS has the same duty to treat it as to treat any other disorder. It should establish the proposed 15 new clinics before 2023 and a comparable number within the following few years. This will require national leadership and a national training programme. (Paragraph 611)

62. We recommend that the National Institute for Health and Care Excellence (NICE) conduct an independent assessment of the various treatments available, and prepare guidelines showing which are the most effective. (Paragraph 622)

63. The Government should develop a strategy to ensure that the NHS clinics and services work together with the existing charities to provide treatment, and to determine how resources will be allocated and patients referred between services. (Paragraph 624)

Lotteries, including the National Lottery

Lotteries and taxation

64. Lottery duty, which is in effect a tax on charitable giving, should be replaced by gross profits tax. (Paragraph 655)

Lotteries and advertising

65. The Gambling Commission should undertake an inquiry into the National Lottery's and society lotteries' advertising and administration costs. The lottery sector's advertising and administration costs should then be reviewed annually with particular regard to measuring their effectiveness, and the Gambling Commission should use its power to impose an expenses cap more effectively. (Paragraph 662)