

PGF Group

Briefing to the Incoming Minister of Internal Affairs

16 November 2020

Opportunities to Reduce Gambling Harm

Since the introduction of the Gambling Act 2003, the Minister for Internal Affairs has been the Minister responsible for the administration of the Act.

In reality this is shared with the Minister of Health who is responsible under the Act for the Strategy to Prevent and Minimise Gambling Harm which is reviewed every three years. The Minister of Health also has responsibility for the subsequent planned and contracted provision of public health (prevention) programmes and problem gambling counselling (treatment services).

The Gambling Act is first and foremost a public health act with the prevention and minimisation of harm at its core. Its purposes may be of equal weight, but the definition of gambling is broad. It includes regulation and provision of harm prevention and minimisation services beyond individuals to society at large and includes possible harmful provision of gambling products by the gambling industry.

Preventing and Minimising Gambling Harm is more than community advocacy and providing treatment services. It needs a strong and strategic public health approach to address the environment fuelling harms. This is about the location, density and provision of gambling products and services in land-based and online environments and in Class 4 (pubs, clubs and TAB pokies) venues and casinos.

Since the introduction of the Act in 2003, the emphasis on harm minimisation and prevention has been downplayed and weakened. This erosion has come through a series of applications and appeals to the Gambling Commission and to the Department of Internal Affairs itself for license changes, rule changes and the overturning of decisions on venue relocations. These successive decisions have undermined, in some cases, policy decisions made by Territorial Local Authority elected representatives, many of whom feel their hands are tied.

The following tables outline opportunities that are available to the government to address the gambling harm that affects Māori, Pacific and Asian peoples at higher rates than the general population.

These opportunities are in three inter-connected areas:

- Review the Community Funding model to ensure equity and transparency in the collection and distribution of gaming machine proceeds.
- Strengthen the role of the Department of Internal Affairs as the regulator with oversight on gambling products and the provision of gambling services, including the mandate of the Gambling Commission.
- Use and scope of the powers of the Gambling Act 2003.

The Commission and the Department require opposers of gambling industry applications to prove harm will occur whereas the gambling industry are not required to prove there will be no more harm. This is a serious public health imbalance and should change if the intent of the Gambling Act 2003 is to be honoured.

Review of Community Funding for New Zealand

ACTION	DETAIL	TIMING
Phased reduction of Electronic Gaming Machines (EGMs or 'pokies') in Deprived Communities	Develop and implement a plan to neither renew nor relocate EGM licenses when they come up for renewal in health decile areas 7 to 10. Review the grant collection and distribution system for equity and transparency with a government view on what could be taxpayer funded (e.g. Air Rescue and Ambulance services).	Medium Term
Standards of Protection	Require new EGMs to comply with higher standards of protection or reduce the addictive properties by building in interrupted play with spend limits and cashless options. This should apply equally to Class 4 and casinos. This could be an alternative to removing or shifting machines.	Medium Term

Role of the Department of Internal Affairs

ACTION	DETAIL	TIMING
Compliance	Require the Department to take a stronger and more rigorous role in monitoring venues for compliance with the law.	Short Term
Gaming Machine Proceeds Reporting (GMP)	Require the Department to ensure Gaming Machine Trusts, Societies and Clubs report regularly, transparently and consistently with a penalty regime that will drive improved compliance.	Medium Term
Sports Gambling	Review the changes to the TAB to protect New Zealanders from sports gambling incentives and promotions and potential diversion of gambling proceeds into racing at the expense of community sports.	Medium Term
Restrict Advertising	Restricting all TAB and Lotto gambling advertising to the same hours as permitted for alcohol.	Medium Term
Onus of Proof	Instruct the Gambling Commission to require the gambling industry to prove casino games, rules, venue design, new EGMs, EGM numbers, venue relocations etc. will not cause harm and to not accept the weak reliance on self-regulated host responsibility programmes.	Short Term
Commission decision precedents	Reviewing the role and function of the Gambling Commission and the precedents that detract from harm prevention and minimisation that have been established through some of its decisions.	Medium Term

The Gambling Act 2003

ACTION	DETAIL	TIMING
Section 314	Exercise the wide-ranging powers available to the Minister of Internal Affairs to regulate where pokie machines can be located.	Short Term
Online Gambling Review	Fast track the review of online gambling and gaming to limit the ability for New Zealanders to gamble offshore and restrict the ability of offshore casinos to promote gambling products to the New Zealand market (Advertising Standards)	Short Term

Provided below is a brief discussion on each of these actions areas by way of background to our thinking.

Review of Community Funding for New Zealand

The PGF Group, The Salvation Army Oasis and Hapai Te Hauora Tapui have published a White Paper titled Ending Community Sector Dependence on Pokie Funding. A copy is attached.

The thesis of this paper, written during the Covid-19 Level 4 lockdown, is that using EGMs or “pokies” to raise funds for community purposes is both inequitable and damaging to the communities that the funds are taken from. This has been validated by BERL in its report, Assessment of the effects of Class 4¹ gambling on wellbeing in New Zealand.

BERL states “one of the most striking features of this report is that [qualitative and quantitative analyses] both indicate that Class 4 gambling tends to magnify community disadvantage. The evidence strongly suggests that it transfers wealth from more deprived communities to less deprived communities.” This report was commissioned by the Department of Internal Affairs and is publicly available.

We have proposed that if NZ needs the services and entertainment that are provided using proceeds of Class 4 gambling losses - which amounted \$939 million in 2019 - then in the interests of justice and equity, the source of these funds needs to be taken into account when assuming societal value in this programme. We further suggest that in the interests of justice and equity, a taxpayer contribution should be considered for things of nationwide benefit or need, or a user-pays approach, or a combination of both.

Presently \$250-\$300 million per annum is dispensed to a range of beneficiaries, from 34 different Trusts and Societies. PGF Group is completing a detailed analysis of historic grants payments to provide a transparent view on what is being distributed and to whom. It is of persistent concern that in 12 months gamblers lost \$939 million for approximately \$300 million to be distributed to a range of national, regional and local beneficiaries. Some benefiting organisations of national standing are unique faith-based interests and received an average of \$5 million each year.

PGF hopes that a detailed analysis could give government insight into what it may think taxpayers could support and what it thinks other sectors or interests could be responsible for.

Class 4 Gambling Community Funding Beneficiaries

In 2019 gamblers lost \$939 million into the 14,856 non-casino EGMs in pubs, clubs and TABs across the country. Fifty percent of those machines are in New Zealand’s most deprived communities². After deducting Venue Payments, Society/Trust costs and Clubs³, Venue Costs, Regulator Fees, the Gaming Duty and the Problem Gambling Levy, approximately \$300 million is available to be paid out in grants, from 34 Trusts and Societies to a wide range of sports and community groups. The split between sport and community is approximately 50/50 although some community groups are also sport affiliated. Using two years of DIA data based on an average total grant pool of \$300 million per annum, the

following table identifies the grant beneficiaries by category from highest to lowest. The average was then used to calculate what one year's grants would be if \$300 million was the size of the grants pool. More detailed breakdowns on beneficiaries of grants are available.

RECIPIENT TYPE (2018-2019 CALENDAR YEARS)	2018-2019 AVERAGE %	\$300m AVAILABLE FOR DISTRIBUTION IN ONE YEAR
Education ⁴	9.5%	\$28,462,184
Community Groups ⁵	9.3%	\$27,934,916
Rugby	9.2%	\$27,712,216
Other Sports ⁶	8.1%	\$24,419,271
Arts	5.5%	\$16,392,203
Soccer	5.0%	\$15,002,957
Health related ⁷	4.3%	\$12,799,031
Water Sports	3.7%	\$11,205,717
Cricket	3.7%	\$11,105,235
Search and Rescue (excludes Surf Clubs)	3.5%	\$10,469,243
Racquets	2.6%	\$7,685,240
Netball	2.4%	\$7,118,418
Youth Development ⁸	2.3%	\$7,037,778
Sports Stadiums/Academies/Events Centres	2.2%	\$6,747,258
Community Services ⁹	2.2%	\$6,619,063
Basketball	2.1%	\$6,159,407
Faith-based	2.0%	\$6,072,184
Hockey	2.0%	\$5,865,693
Māori	1.6%	\$4,859,308
Surf Lifesaving Clubs	1.6%	\$4,761,723
Bowling	1.4%	\$4,074,299
Hospices	1.3%	\$3,979,478
League	1.3%	\$3,868,096
Kindergartens/Childcare/Plunket	1.1%	\$3,371,073
Racing	1.1%	\$3,362,980
Special Olympics/Sports for the Disabled	1.1%	\$3,358,283
Cycling	1.0%	\$3,050,333
Ambulance Services	1.0%	\$2,884,999
Softball	0.9%	\$2,625,533
Gym Sports (inc. Weightlifting/Boxing/Wrestling)	0.8%	\$2,531,143
Community Clubs/Organisations/Events	0.8%	\$2,517,262

RECIPIENT TYPE (2018-2019 CALENDAR YEARS)	2018-2019 AVERAGE %	\$300m AVAILABLE FOR DISTRIBUTION IN ONE YEAR
Territorial Local Authorities and City Councils	0.7%	\$2,155,862
Equestrian/Pony Clubs	0.6%	\$1,799,409
Athletics	0.6%	\$1,798,825
Family Support and Refuges	0.5%	\$1,362,423
Cultural Groups/Clubs	0.4%	\$1,321,327
General Community Support ¹⁰	0.4%	\$1,223,573
Animal Support and Refuges	0.4%	\$1,197,609
Motorsports	0.4%	\$1,064,865
History and Tradition	0.3%	\$874,245
Disability Groups	0.3%	\$802,691
Fire Services	0.2%	\$669,005
Businesses ¹¹	0.1%	\$437,143
Elderly Services	0.1%	\$428,448
Ecological/Green Groups	0.1%	\$399,444
Women's Refuges and Support	0.1%	\$217,289
Miscellaneous	0.1%	\$215,285
General Leisure Groups ¹²	<0.1%	\$105,200
TOTAL	100%	\$300,000,000

This detail is provided to give some transparency on where gambling losses are going to enable government to have a perspective, should pokie funding revenue reduce, on where shortfalls could - or should - be met by government, the private sector, community interest groups or a combination of these.

It also enables an equity lens given the grant beneficiaries are often not representative of the communities from where the gambling losses are coming. We believe an in-depth analysis to prove the necessity of all the payments could result in this amount being reduced significantly.

Role of the Department of Internal Affairs

One of the first and most important things that the Department could do is petition the Minister to declare that there will be no EGMs in health decile areas 7 to 10. This is discussed below. There are, however, other categories of action that the Minister could provide direction on.

Standards of Protection

The Department oversees the regulation of EGM standards and could require all new machine licenses to have harm reduction features to reduce their addictive properties. This could be applied to EGMs in casinos, pubs, clubs and TABs. Some of these features could be:

- Play interruption
- Player tracking and pre-commitment systems
- Cashless machines

It currently falls to gambling treatment and public health providers to 'prove' harm will occur when applications are made for new machines, changes to venue design and/or changes to game rules for EGMs and electronic table games in casinos etc. These services do not have the resources for the analysis required to meet an evidentiary test required by the Gambling Commission. The DIA could insist on provision of proof in an applicant's submission that no harm will occur.

Host Responsibility Reliance

A defence of the New Zealand gambling system is that there are strong host responsibility requirements in the legislation. While on paper this may appear to be true, any audit of the system has yielded very unconvincing results. Similarly, evidence provided at a recent hearing on the host responsibility system used by the SkyCity Hamilton Casino was lacking in quality evidence to prove its effectiveness. The Gambling Commission accepted evidence that the host responsibility programme of SkyCity Management Limited was a good programme but did not require SkyCity to provide evidence of its effectiveness in preventing and minimising gambling harm. When the DIA tried to remove a Class 4 license from a venue, the Trust - Waikiwi - appealed to the Gambling Commission who upheld the appeal, and there was no recourse left to the Department. This decision has, in our view, discouraged action with other questionable venues.

The DIA does complete 'Mystery Shopper' exercises to identify Class 4 venues not complying with the law but it is a poor measurement tool at best, and still leaves the Department with few resources to follow up and ensure compliance for the future. It is venue based and does not enable any penalties to be applied to Trusts and Societies who hold the licenses. If host responsibility programmes are to be relied upon as protection for the vulnerable, then they must be independently, rigorously and regularly reviewed, along with the introduction of penalty regimes such as license removal, that will be supported by the Gambling Commission.

The Gambling Commission

The DIA has publicly supported Class 4 EGMs because of the community funding they generate and has historically not engaged, with the rigour we believe necessary, with the harm from the gambling losses experienced by vulnerable populations. Where the DIA has tried to enforce the Gambling Act 2003 with specific venues, they have lost on appeal to the Gambling Commission where the only recourse would be to seek a judicial review. It would seem the Ministers at the time did not have the appetite for a judicial review and gambling service providers do not have the resources for this lengthy and expensive process. Furthermore the Gambling Commission decisions, from our experience, are eroding the purposes of the Gambling Act; to prevent and minimise gambling harm.

When the Auckland City Council declined an application to move EGMs to a new venue (Counties Inn), the Trust with the license and the venue appealed to the Gambling Commission who upheld the appeal. This undermined the efforts of elected representatives in the implementation of their gambling policy and its intentions, consistent with the Gambling Act 2003.

We are of the view that the Gambling Act is a good one and with political will and direction can be used more effectively to make a meaningful impact on gambling harm, especially for vulnerable populations.

The Commission could play a valuable role in preventing and minimising gambling harm. This could be done with judicial and/or political direction on priorities in the Purposes of the Act and on the evidence level required from applicants to prove there will not be more harm from proposed applications to change games, machines, venue locations and venue design. Currently those who oppose applications to the Commission are required to prove there will be more harm or meet a 'growth in gambling' test. It is an unequal contest given the resources the casinos in particular have access to.

There may be something to be learnt from the UK Gambling Commission (UKGC) which has a more interventional role and has issued over £30 million in fines in the year ending 31 March 2020. These fines can be for gambling provision offences and contravention of the money laundering regulations. The UKGC is recruiting 'lived-experience' advisors, and the Commission promotes gambler knowledge of safety requirements and their rights.

Advertising Restrictions

Currently the TAB and Lotto NZ are permitted to advertise online gambling products during prime time TV and during times of child viewing. We believe as a public health protection measure that advertising of age-restricted products should apply to gambling as it does with alcohol and tobacco.

Offshore gambling providers (JackpotCity and SilverCity) are exploiting a loophole that enables them to advertise their gambling products on mainstream television. SkyCity Management Limited also promoted their Malta-based gambling site on Facebook during Covid-19 lockdown. These organisations have bypassed New Zealand's Gambling Act Public Health goals.

The Gambling Act 2003

Section 314

The Gambling Act 2003 was enacted to provide a public health approach to the regulation of gambling and to reduce gambling harm. In the case of Class 4 gambling, communities are empowered and Territorial Local Authorities (TLAs) are required, to have gambling policies that must be reviewed every three years - or less if changes are needed more urgently - and that mandate how many and where machines should be.

Part of a public health approach is to restrict access to dangerous consumptions (c/f alcohol, other drugs, firearms, motor vehicles) but this is always in conjunction with other strategies. The specific powers that TLAs have generally are seen to be to reduce access to EGMs through sinking lid policies. This may reduce access to machines over time but will not significantly impact harm unless they are also reduced in communities with high deprivation. To date the only attempts to restrict access to EGMs in deprived areas is through policies that limit relocation of machines.

Class 4 Trusts and Societies argue that sinking lid policies do not work because spending on EGMs is going up, machine numbers are coming down and presentations to services have levelled off. These statements are unrelated to each other. Machine numbers are not coming down in deprived communities, where 50 percent of EGMs are located - and where people spend more on gambling than those in affluent communities. In addition, according to the Ministry of Health, presentations to treatment services is not a measure of harm because research confirms that the majority of people do not seek help from treatment service providers.

Those TLAs that support sinking lid policies and oppose venue relocations still express frustration that they cannot address the density of machines in their poor communities and that Trusts and Societies can bypass the intent of their public health focussed gambling policies.

This can be addressed in the current Act where s314 states:

314 Regulations relating to gaming machines in class 4 venue

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

- (a) prescribing the maximum number of gaming machines that may be operated in New Zealand or any area within New Zealand (or both):

There is nothing in the Act that prevents any citizen from asking the Minister of Internal Affairs to use this power and a request from a TLA would be well-grounded and appropriate as representing a community. Such a request may specify, for example, "that there be no EGMs in a Class 4 venue in Census Area Units (CAUs) with Ministry of Health deprivation index levels 7 to 10, or within two

kilometres of these CAUs". The Act is not clear on the process from here, but it appears the Minister can make such a request of the Governor General with no further expansion of the process.

The request could include a change programme such as time allowed to effect such a policy by removing/turning off EGMs and/or declining licenses as they come up for renewal. Although it is not stipulated that this request is part of a Class 4 venue policy review, by providing an example in the legislation at Section 314(b) of a 'sinking lid', the implication is that a policy review would be an appropriate time for a TLA to decide to make this request of the Minister.

Vulnerable Populations

A public health Act such as the Gambling Act 2003 is premised on the notion of public good, and that means good for all not just a few. It is inconsistent with the intent of the Act therefore, to have some populations experience disproportionate harm while others experience significant benefits (shareholders, community grant recipients and some sports). This inequity is most evident with Class 4 gambling where there are five times the number of EGMs in the most deprived communities compared to more affluent communities.

Researchers have been able to identify New Zealand population groups as being disproportionately affected by gambling. The current identification includes:

- Those who are already marginalised
- Recent migrants
- People living in the more deprived areas
- Ethnic groupings because of their marginalisation and recent migration
- Those experiencing depression and/or anxiety and other mental health issues
- Those with drug and alcohol issues and dependence

There is a concentration of Class 4 gambling, Lotto and TAB outlets in communities with higher deprivation. This needs to be addressed to ensure this doesn't continue to exacerbate disparities. The deployment of EGMs in casinos also needs to be monitored for a harm reduction outcome because of the inherent addictive properties of the EGMs licensed for use in New Zealand.

Online Gambling and Gaming

The DIA has begun a study of the impact of online gambling. It is not within the scope of this paper to consider the tax implications of untaxed cashflows out of the country. Rather it is the consideration of the amount and the harm from gambling which is discussed here.

New Zealand financial institutions are best placed to advise Ministers on how much money leaves the country in overseas gambling transactions. PGF Group recently presented to KiwiBank to support its contact centre staff working with customers in financial distress due to gambling which featured prominently.

One institution PGF Group has spoken to reported large increases in gambling over 12 months which was not just driven by Covid-19 lockdown effects. New Zealand based Health Promotion Agency research suggests an increase in online gambling during lockdown, but this could be largely due to people purchasing Lotto tickets online. Pokie venue gamblers did not report a sudden change to online gambling - in fact, many clients reported relief at the closure of pokie venues over lockdowns at alert levels 3 and 4.

It is a challenging picture and some of the increases in offshore spend reported by the financial institutions correlate with the primetime advertising of overseas sites such as JackpotCity and SilverCity - advertisements that PGF Group tried unsuccessfully to have taken off air. SkyCity Management Limited also started heavily promoting its Malta-based online casino on Facebook.

The risk of losing money offshore that could be spent in New Zealand does not, in our opinion, justify supporting any system causing disproportionate harm to vulnerable families and communities. We also argue that the regulator should protect the New Zealand gambler from harm, irrespective of whether gambling is based in New Zealand or offshore.

The convergence of gaming and gambling is an emerging and fast-developing issue that gambling regulators around the world are grappling with. It is estimated that online gaming will reach \$196 billion in revenue by 2022. Along with this growth has come games made by developers that are increasingly using gambling industry tactics to encourage players to engage with their games. One such example is loot boxes - digital containers of random items that can feature in some games - which have sparked global debate over whether they constitute gambling, and therefore should be regulated.

A recent paper, co-authored by Dr Aaron Drummond of Massey University's School of Psychology, and Dr James Sauer of the University of Tasmania's Department of Psychology, says that adolescents playing video games that offer loot boxes could be being exposed to mechanisms that are psychologically akin to gambling. They analysed loot boxes in 22 games rated as appropriate for audiences 17 years of age or younger. This revealed that loot boxes have structural and psychological similarities with gambling and that nearly half (45 percent) of the games they analysed met all five of the psychological criteria to be considered a form of gambling.

Studies from around the world have shown a link between loot boxes and harmful gambling, not only in adults but in older adolescents. Adolescent problem gamblers spent more than five times as much money on loot boxes than those who did not have a problem. The DIAs Public Discussion Document, released as part of its review of online gambling (including gaming), states that there are limits to what gambling regulators can do, as New Zealand law is unenforceable overseas and the issue cuts across several other portfolio interests including Classification, Children, Consumer Affairs, Health and Social Development.

As the gambling demographic ages, the industry is actively trying to attract millennials and youth into gambling with gambling-like products and activities. Some games make it very easy for young people to 'bet', and some of the betting platforms don't do enough to keep underage gamers out. It is often too easy to circumvent the age restrictions which puts teens and pre-teens at risk. There appears to be little consistency in the age verification process and tech-savvy young people often gain access despite these restrictions.

Next Steps

PGF Group will continue working on ways to address the gambling harm inherent in the community funding model and to support work DIA can do on strengthening its role as regulator to uphold the purposes of the Gambling Act 2003.

We welcome any opportunity to engage with Ministers, officials and the industry to achieve New Zealand's public health goals for the safe provision and oversight of gambling in New Zealand.

Endnotes

- 1 Class 4 gambling is EGMs in pubs, clubs and TABs.
- 2 Ministry of Health Strategy to Prevent and Minimise Gambling Harm 2019/20-2021/22
- 3 Clubs proceeds are returned to the Club to be used for Club purposes.
- 4 Education includes public and private education but does not include educational aspects of youth development groups. It is generally grants to schools.
- 5 Community groups includes groups that may have some other identity, but they exist to contribute to their community, not classified elsewhere.
- 6 Other sports are sports that are combinations such as a sports club that combines with another sport to develop the sport facilities (e.g. Ellerslie Sports Club in Auckland), sports bodies themselves (e.g. Sports Manawatu) or who individually received only small amounts
- 7 Health-related are all services that are providing a service in the health industry either publicly or privately. Large beneficiaries are the DHBs themselves.
- 8 Youth development includes groups such as Scouts, adolescent development programmes and youth focussed family organisations.
- 9 Community services provide a service which if it were not provided with the help of grants, the public would be obliged to fund them.
- 10 These are groups that provide support that does not naturally fall into any of the other groupings in this analysis. Examples are the Men's Shed movement and general community groups identified by their community such as Massey Community Trust.
- 11 These are recipients who are providing business services for payment such as NGO training organisations.
- 12 This category is a 'catch-all' for such groups as Marching.

About the PGF Group



The Problem Gambling Foundation is now trading as PGF Group, with Asian Family Services, Mapu Maia Pasifika Services and PGF Services as part of this overarching brand.



The organisation is a charitable trust operating nationally with services delivered under contract to the Ministry of Health, and funded from the gambling levy. PGF Group deliver treatment and public health services nationwide. We have a skilled and diverse workforce with staff who are qualified in clinical work and in health promotion.



Our specialist teams provide culturally and linguistically appropriate support to Asian and Pasifika communities living in New Zealand. Asian Family Services provide free, professional and confidential counselling, information and support in several languages and operate a nationwide helpline.



Mapu Maia Pasifika Services provide a holistic, family-centred service which is free, confidential and delivered by experienced and qualified staff who can support people in English, Samoan and Tongan.

PGF Services provide free counselling, advice and support to gamblers and their families and works to ensure that support for our Māori clients fits a kaupapa Māori way of working.

