



Submission to the review of the Gambling Act 2005

About the Commission on Crime and Problem Gambling

The [Commission on Crime and Problem Gambling](#) was launched by the Howard League for Penal Reform in June 2019. It is scheduled to run for three years and it seeks to answer three questions:

- What are the links between problem gambling and crime?
- What impact do these links have on communities and society?
- What should be done?

The Chair of the Commission, Lord Peter Goldsmith QC, leads a team of 16 [Commissioners](#), comprising academics and professionals with expertise in the criminal justice system and public health as well as experts with knowledge of the gambling industry and lived experience of addiction.

To support the work of the Commission, the Howard League has commissioned [research](#) focusing on:

- Sentencers' understanding and treatment of problem gamblers
- The lived experience of people through life course analysis of people who have been sent to prison self-reporting as problem gamblers

This submission makes a number of observations based on the Commission's work to date, addressing selected questions which form part of the Government's Review of the Gambling Act 2005.

Online protections - players and products

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

The Commission on Crime and Problem Gambling welcomes recent initiatives to restrict the use of credit cards for online gambling and the introduction of stricter guidance on VIP customer schemes, both of which limit opportunities for problem gambling to escalate. We have been given evidence that each of these factors have previously influenced the propensity of people to engage in problem gambling to the extent that they exhaust legitimate funds and potentially seek access to illegitimate ones. Nevertheless, while we understand that some VIP schemes have ceased, it will be important for the Gambling Commission to monitor whether the guidance limits them far enough.

Gambling Commission's powers and resources

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?

Our Commission has been told that there are currently anomalies in the regulatory framework related to the detection of gambling-related fraud and theft under both the Gambling Act and the Proceeds of Crime Act. Under the current anti-money laundering regime, transactions linked to gambling-related crime may be identified by a gambling operator who will initiate a Suspicious Activity Report. We understand that there is a significant backlog in reviews of such Reports, resulting in a situation where the perpetrator may not be held accountable unless the employer or affected other identifies that funds are missing and reports it to the police.

The Commission would like to see the regulatory regime strengthened with regard to the role of banks through which stolen funds used for gambling are laundered. This would facilitate earlier detection of fraud and theft offences the purpose of which is to fund problem gambling, with the amounts stolen currently escalating over a period of time before detection by gambling operators, employers or affected others.

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

The Commission for Crime and Problem Gambling has concerns about the distribution of funding for external research by the industry and we support the need for a funding stream which facilitates research which is both independent and perceived to be such. Our work has also identified that there is significant scope for a greater focus on research on gambling-related crime. For example, we published a literature review, [Crime and Problem Gambling: a research landscape](#), which revealed a dearth of knowledge in the UK about the links between crime and problem gambling. We have since devised our own programme of research which will be conducted over the duration of the Commission. Nevertheless, there remain many unanswered research questions and we would like to emphasise the importance of investing in research specifically focused on understanding the links between problem gambling and crime; the link between financial crime like theft and fraud and gambling is better documented than, for example, domestic abuse which is more likely to be hidden.

The nature of the research conducted by the industry itself and the Gambling Commission's interest in wider gambling-related harms, have resulted in limited attention being paid to ensuring that the public health response is sufficiently aligned with the criminal justice system in cases in which criminal justice agencies are the access point to treatment and support. There is also a startling lack of awareness of gambling-related crime amongst criminal justice professionals, sentencers and practitioners.

Consumer redress

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?

Our work has revealed the potential unfairness of the confiscation regime as it is currently applied in cases involving problem gambling which we believe should be taken into consideration as part of this Review. The primary purpose of the confiscation regime under the Proceeds of Crime Act is depriving defendants of the benefit they have gained from their relevant criminal conduct, within the limit of their means. The model of proceeds of crime confiscation typically assumes that there are

realisable assets that can be retrieved to deprive them of the benefit gained.

While the general principle of recovering assets is sound, there are particular considerations in cases in which problem gambling or a gambling disorder is instrumental in the offence. In such cases, the gambler typically turns to crime to maintain their addiction once all other assets have been exhausted. The realisable assets of gamblers themselves are therefore frequently nil or limited as the stolen finances have all been consumed through gambling. There is also often significant transparency and a clear audit trail over what the gain was and where it went, unlike other crimes covered by Schedule 2 of the Act.

In addition, gambling-related offending of this nature is typically hidden from the family. The Commission on Crime and Problem Gambling has heard that often the only realisable assets are contained within the family unit and the family therefore suffers a greater penalty from the confiscation order than the perpetrator. Sufficient account is not given to the punitive impact of proceedings on secondary victims in such cases both when the order is made and for as long as the debt is owed to the state. In addition, for the perpetrator with a gambling addiction, there is a risk that the level of debt to repay would incite further offending, contrary to s.2A, in part 1 of POCA which places obligation on prosecution authorities and law enforcement agencies to exercise their powers in a way “best calculated to contribute to the reduction of crime”.

The Commission on Crime and Problem Gambling also has concerns about consistency and proportionality in confiscation order proceedings for these types of offence. Evidence received by the Commission illustrates a lack of consistency by the Crown Prosecution Service and judiciary when confiscation orders are being made. The Commission understands that these are not isolated cases.

We would also highlight some concerns which provide important context to the question of fairness in cases involving problem gambling. In many recent cases of fraud perpetrated to fund a gambling addiction or problem, victims of the crime have received compensation from gambling companies following investigations by the Gambling Commission for social responsibility and money laundering failures. Gambling companies are therefore deemed to have been implicated in the offending, for example, because they failed to scrutinise the source of funds. It does not appear to us that there is discretion within the current POCA to take into account the wider culpability in the cases we are concerned about. There is a need for clarity about whether this compensation should be taken into consideration by prosecuting authorities during confiscation order proceedings and, if so how.

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