

**The Spraylakes Consultancy
The Old Wharf House
The Wharf
Great Linford
Buckinghamshire
MK14 5AS**

**01908 840771
07970 148000**

Gambling Act Review Response

What is the Spraylakes Consultancy?

Formed in late 2020 by Nick Harding the Spraylakes Consultancy has been established as a working hub for individual gaming/leisure consultants and service providers to the sector in the UK and Europe to come together not only to present and market themselves jointly and separately but also to exchange thoughts and ideas based on years working at 'the coal face' of leisure and gaming industries.

Nick Harding has over forty years' experience in the betting and gaming industry in the UK. He has worked for Blue Chip organisations, Family businesses and SMEs. He has taken two Private Equity backed start-up gambling businesses onto the AIM market and delivered strong returns to investors. He has operated AGCs, FECs, Bingo Clubs, on-line gaming sites and 'single site supply' to the leisure industry.

He has previously been President of BACTA, a Director of the Bingo Association and Chair of the Gambling Business Group. He launched the UKs first on-line gaming association. He was the longest serving Trustee on the Gambleaware Board and its predecessor organisations. He was also an advisor to Gamcare and was one of the early supporters of Gamcare when it was a fledgling organisation.

All this enables Nick to take a considered view of the UK Gambling Industry and its regulation (past and present) and he can speak about any section of the UK industry with experience and authority.

The Spraylakes Consultancy has no bias toward any industry sector. All consultants are vetted by Nick Harding before joining the team and internal debate and discussion addressing current industry topics (and/or consultations) is encouraged.

This document is the output of some of those discussions. Through the Spraylakes Consultancy individuals are available for further input either in writing or orally by contacting Nick Harding.

Responses to the consultation document are shown below by an 'A' followed by the underlined response. For obvious reasons not every question has been commented upon and where this is the case the original question is shown but no response follows.

Online protections - players and products

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

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

A) It is counterintuitive for UK online (Slots) stakes, prizes, product design and testing regime to be without limits whilst land based slot products are strictly limited. This imbalance needs to be urgently addressed. Given the much slower rate of play of representations of traditional Casino games (Roulette, Blackjack etc.) on line we see no reason why individual operators should not be allowed to set their own house limits on stakes (assuming the right safeguards are in place) in the same way that land based operators do.

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?

A) See answer to Q2 above.

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?

A) We do not believe that general affordability checks will work. In countries where player ID checks have been introduced we understand that regular players find simple solutions to the challenge and irregular or casual players stop playing altogether. We are deeply concerned that introducing some form of affordability checking system will provide a false sense of security to stakeholders and other (more sensible) markers of harm will be ignored. Online operators should set their own limits on players based on regular credit scoring. We note that the Rank Group started to use Experian credit checking last summer.

There is also the clear question of civil liberties. Does the government believe that it has the right to determine what and how much an individual spends on what is, after all, a legal activity? What next? "Can you afford that bottle of wine sir?" or maybe "should you really be spending that much money on a pair of shoes madam?" This is a slippery slope which may provide some short term political capital but which will not address the real issues behind problem gambling in the UK.

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

A) We are not aware of what precisely the government's objectives are and therefore find it difficult to respond to this question.

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

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

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

A) We do not see any issue with White label arrangements as long as they are subject to the UK gambling regulatory structure and presented to the public by UK licensed operators who are governed by the UK LCCP.

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

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

Advertising, sponsorship and branding

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

A) UK licensed businesses should be allowed to advertise their legitimate businesses in the UK market. It should be for each licensee to ensure that their advertising material does not breach any ASA or other codes (e.g. LCCP). Direct advertising of gambling products to U18s should be prohibited. Sports men and women are role models and children are more than likely to want to wear a full replica shirt or kit. Specifically, we believe that ALL gambling advertising and sponsorship should, at the very least, carry the 18+ logo and social responsibility messaging on all sponsorships. The above should also be extended to advertising boards at sports stadia and match day programmes which are also accessible to under 18's.

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

A) We do not believe that there is any evidence to either support this, or not to support this. But what does it mean if, (after a radio advertisement for a gambling product) a 'voice over' says 'Be Gambleaware.org'. This is nonsense and we are surprised that it has been found to be acceptable in any way.

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?

A) VIP schemes are now effectively outlawed, however licensed operators should otherwise be allowed to promote their businesses providing those promotions and offers are within the scope of both the LCCP and the ASA advertising codes. Free spins, bonuses and other promotional tools have been common in the UK gaming industry for the past sixty years without controversy. How does this differ to a pub landlord giving you a free pint? This review must not throw the baby out with the bathwater.

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

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

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?

A) We are not aware of any significant black market for gambling in Great Britain. We would however be very concerned that invasive affordability checks might encourage black market provision of some forms of gambling such as was prevalent prior to the Betting, Gaming and Lotteries Act 1963.

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

A) It would appear to be relatively easy for UK players to access black market gambling websites.

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

A) Unless you know exactly what you are looking for it is very difficult for the regular player to know the difference between what is a UK licensed operator and a site that is licensed in another jurisdiction and therefore not legal in the UK.

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

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

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

A) We believe that in most regards the current fee system is working effectively and we would be concerned if the Gambling Commission was able to freely adjust its fees without proper independent scrutiny. We are surprised at the wording of the second part of this question as we feel that the financial incentive for UK Gambling operators is to always be fully compliant or to risk losing their licence.

We would suggest that the fee structure could be reviewed in order to better target those operators or sectors that can cause the Gambling Commission greater concern. In reviewing the Gambling Commission Sanctions Registers it is obvious that over the last 3 years there have been no sanctions against PML holders in the AGC, FEC or Bingo sectors, whereas they are numerous in the Betting, Casino and on-line sectors. QED?

The Operating Licence Sanctions Register shows a similar picture with very small levels of activity on non-remote AGC, FEC and Bingo. Alternatively there are very well documented fines and sanctions levied on remote Casinos and to both remote and non-remote Betting.

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?

A) There is a real and worrying lack of diversity among researchers engaged in the field of gambling, with an apparent bias towards middle class, social scientists. That lack of diversity will inevitably lead to a much narrower approach and restriction of views than society should expect to see. The fundamental barrier to high quality research is that individuals engaged in gambling are seldom willing to answer granular questions about their gambling. As such researchers receive either incorrect responses or no responses at all and are forced therefore to work with a lower sample size which can easily skew results.

Clearly any data can be useful but small sample sizes do not always provide a clear understanding of emotions and motivations of players. We do not believe that there are alternative models that might improve outcomes but would suggest that detailed reports and direction to Politicians and Regulators (where they are based on small sample sizes) should be flagged.

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

A) Not that we are aware of in any detail.

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

Consumer Redress

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

A) There is no evidence to support the suggestion that the current arrangements are not working effectively.

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

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

A) It is true that a problem or recovering problem gambler may revert if suddenly given a great deal of money by way of a compensatory payment. Evidence to the APPG on problem gambling heard from one problem gambler who said that as soon as he had received any large repayment he would simply

re-stake it in an effort to recoup his overall losses. Better management of compensation payments to vulnerable individuals is needed. It would however be nonsensical to give every gambler an option of 'if you win, take the winnings, but if you lose, cry foul and get compensation for losses'. If gambling was financially risk free it wouldn't be gambling and as such we do recognise that this is a Gordian knot.

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

Age limits and verification

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

A) We have been involved for a number of years in the operation of land based venues and we do not believe that there are any significant issues that might justify concerns that U18s are gambling. The results of numerous sector mystery shopping surveys are available to the Gambling Commission and these surveys and tests reinforce that view. With the obvious exception of so called Loot Boxes we are also perplexed as to how underage gambling can take place online? Logically if an U18 is gambling online then they must by definition have gained access to an adult's account, username and password and possibly also payment details. If they lose they are simply spending the adult's money and if they win the winnings must by definition go back to the adult's card. QED?

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

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

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

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

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

A) We believe that Category D “reel based” slot machines should only be available to adults. We do also believe that Category D “reel based” slot machines should be permitted to be located in FEC areas of operation in positions such as will allow the adults playing them to visually supervise their children engaged in other forms of amusement entertainment. We believe very strongly that ‘the man on the Clapham Omnibus’ would be surprised that ‘Pushers’ and ‘Crane Grab’ machines are still classified as Gaming Machines and we feel that these type of Amusement machines should be removed from the current Gaming machine classifications.

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

A) See response to Q34.

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

A) We do not believe that extra protections are needed for young adults. Once an individual has reached the age of majority then they must be permitted to participate in any lawful activity in the UK. We would be very concerned if there was any suggestion that this was not to be the case and would suggest that the introduction of additional age related rules to Gambling products could be the thin end of a social and political wedge that could herald an inexorable slide toward totalitarianism. Such constraints would also encourage the development of black market products. As an example would this country really want to see a situation where a twenty year old Royal Marine Commando might be told that his country doesn’t trust him to place a bet on a horse?

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

A) See response to question 36.

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

Land based gambling

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

A) For over thirty years the Triennial Gambling review process worked well for both the regulator and the industry. This process was set aside during the run up to the 2005 Act and has not been reinstated. Instead the industry has had to endure a series of seemingly random reviews and changes to the LCCP and stakes and prize regime. The Triennial process brought order to regulation and to the review of products, stakes and prizes and involved a six month submission process followed by decisions from Ministers and the Regulator as to what changes, if any, were required. The industry then (in general terms) had a year in which to design, sell and introduce new products, a year or so in which to operate these products at optimum levels before the run in again towards new submissions. A process of less than three years would have been too rushed and anything over three years would remove the opportunity for industry to keep pace with RPI (in terms of stakes), advances in technology and to ensure that customers did not feel that products were becoming stale. Whilst the decision to set aside the Triennial process during the run up to the 2005 Act was understandable (so as not to cloud the debate at that time over significant changes to UK gambling regulation), the law of unintended consequences can be applied to what has since happened, to wit, a disjointed and at times unintelligible series of 'tweaks' to regulation. The whole UK industry desperately needs a return to a sensible cycle of regulatory review that is enshrined in legislation. Any changes that follow should be within the remit of

the Secretary of State following consultation with its advisor the Gambling Commission.

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

A) We believe that the gradual shift to a (largely) cashless economy is simple technological progress and can see absolutely no reason why land based gaming should not be able to use cashless payments in the same way that all other operators in the UK Leisure and Hospitality industry do already and which online operators have been doing for the last 20 years.

Q41: Is there evidence that changes to machine allocations and/ or machine to table ratios in casinos to allow them to have more machines would support the government's objectives? An increase in machine allocations for 1968 licensed casinos would support the government by;

- i) Enabling casinos to offer better customer choice of slot products. Casinos licensed under the 1968 Gaming Act have by far the lowest ratio of gaming machines to customer of any category of UK gambling premises.
- ii) Mitigating the negative behavioural responses from low availability as it can be seen that players are often reticent about leaving a machine to take a break in their gambling as they know that the machine is unlikely to be free when they return. It is not unusual to see players queuing for machines during busy sessions.
- iii) Enabling fairer competition with online, consistent with the objectives of this review.
- iv) Helping to preserve jobs in a sector that has been particularly hard hit by Covid.
- v) Encouraging investment in premises and also stimulating jobs for manufacturers of gaming equipment, particularly in South Wales where the manufacturing sector has been hardest hit.

- vi) Reflecting changes to the UK gaming landscape since 2005, in particular the huge growth in remote gambling and will allow land based casino operators to at least offer a more appropriate number of products, as opposed to seeing customers sitting in their premises gambling on line with operators based thousands of miles away.
- vii) Ensuring that there is an appropriate balance between consumer freedoms and choice and prevention of harm to vulnerable groups-by allowing casinos to better meet consumer preferences under appropriate supervision.
- viii) Maintaining the essential character of British Casinos with a machine to table ratio and a requirement for non-gaming amenities. The 5:1 ratio in 'Large Casinos' works well, and those casinos maintain the traditional nature of British Casinos. There should be a formula to allow 1968 Act Casinos to move up to the levels of 2005 Act Casinos, with a cap on the total number of machines of 80 or 150, a machines to table ratio of 5:1, and a requirement for a for a proportion of non gaming space depending on the number of machines they offer.

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

- A) With so few 2005 Act Casinos having opened, partly due to the 2:1 ratio for small Casinos being uneconomic, it is difficult to make a meaningful interpretation. It can be seen however that where they have opened, they demonstrably are popular, add to the local entertainment ecosystem, support economic regeneration, tourism, growth, and there are no negative impacts from the larger numbers of gaming machines. This latter point is to be expected given that land based Casinos are appropriate venues for machine based gambling, with all their controls and regulation.

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

A) There is no evidence to suggest that local authorities do not have enough powers to fulfil their responsibilities in respect of premises licences. Their existing powers are more than adequate and evidence would suggest that local authorities rarely use these powers. In the Public Accounts Committee report into Gambling published in June 2020 it was found that in 2018/2019 of the 380 local authorities in the UK over 30% did not carry out any type of inspection of licensed premises. This leads us to believe that local authorities have limited concerns over gambling licensed premises.

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

A) We do not believe that there is any evidence that the current automatic entitlement to two gaming machines is flawed. To expect local authorities to individually authorise the number of Category C or D machines would be unnecessarily bureaucratic and would cause delays in issuing licences which would in turn impact further on an already struggling hospitality sector.

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

Nick Harding
22nd March 2021