

Review of the Gambling Act 2005 A Response to the Call for Evidence

Jon Bryan

This submission covers each section of the call to evidence, rather than each individual question. It is made clear where a particular point relates directly to a specific question. I do not pretend to provide any clear answers. I try to raise questions and concerns to be considered, so that the implications of choosing a particular path are made clear to the reader.

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Introduction

Striking the right balance

The government approach in reviewing the Gambling Act 2005 tries to strike a balance between respecting *'the freedom of adults to choose how they spend their money'* and *'the protection of children and vulnerable people'*. Looking to balance these sometimes counteracting tendencies seems an eminently sensible thing to do. Millions of people enjoy gambling every year and should be free to continue to do so, but protecting the vulnerable from harm is also an important aspect of regulation. The question always is, which way, and how far, do you bend the stick?

The government seems to have framed the review in a way that unites almost everyone who has an opinion on gambling. But that unity is proving easy to break. The recent appointment of John Whittingdale to lead the review was greeted very differently. *'Campaigners for gambling reform voiced concern'*, according to a piece in [The Guardian](#); his appointment was *'welcomed'* by the [Betting and Gaming Council](#). Any unity now about the review and its terms of reference will quickly fall away once it draws to a conclusion and proposals begin to emerge.

A review led by evidence

The other aspect of the review that seemed to unify opposing voices is the idea that it should be evidence-led. According to the government:

'This Review is about using the evidence to assess whether we have the balance of regulation right'.

It seems foolish to disagree with the notion that the evidence should direct us, but being directed solely by evidence requires us to ignore political and philosophical belief. That is not something that happens a lot with politicians and governments. Evidence tends to be seen and understood within a particular framework. And there is no one bit of evidence which gives the answer. Very often, there is competing evidence. And data can also be interpreted in different ways. In the last three months in the debate around gambling, we have seen plenty of examples of this.

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Jockeying for position

In the run up to the closing of the call for evidence, we have seen various groups and individuals jockeying for position. Everyone wants to be the one with the solutions that the government should run with.

We have seen a proliferation of evidence, surveys, and opinion pieces, many of which openly compete and challenge each other. There is nothing wrong with that, and it could be argued that it is quite healthy. But it does pose the question as to what role the government should play in the review.

Will they simply weigh up the submissions and go with the heaviest? Or will they do something that many of us expect leaders to do: to have a belief in something – and for that to be the guiding force for them as they sift through the various evidence submitted for the review.

Arguably, the proposals that emerge should be underpinned by a particular philosophy towards people and gambling. I hope that we see an underlying narrative which is a more liberal approach than the one which often dominates much of the press and the commentariat.

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Online protections - players and products (Q1-10)

The government should be careful when looking at the evidence on online gambling. It is striking how some researchers and commentators have approached this data. For over a year, we have been facing a global pandemic that has closed down huge swathes of society. Much of what we used to do in person has moved online. Bricks and mortar casinos and bookmakers have been closed for significant periods over the last 12 months. When they have been allowed to open, they have been subject to limits and restrictions. Millions of people have been shielding from outside life and physical contact. The 'stay at home' message has been law for much of the last twelve months, and guidance for the rest of the year. With all of that in mind, it would therefore be astounding if online gambling activity had seen no changes during this time.

Headlines such as ['The pandemic has triggered a British online gambling crisis'](#) seem designed to instantly worry the reader, when there is no real evidence that we are in such a 'crisis'. Claiming we are, when medium and long-term trends are not yet known, is wide of the mark. When the government considers Q1-10 in the review, basing a response on evidence gathered largely from the last year would be foolhardy.

Thinking carefully about imposing restrictions

The government needs to think carefully about whether it should take a drastic step and restrict the spending power of punters. This has been the subject of much debate, including limits on stakes, restricting deposits, and questions of affordability.

One of the pieces of evidence on this issue comes from the [Social Market Foundation](#). Dr James Noyes argues for:

'the introduction of a standardised affordability threshold set at £100 per month at which customer due diligence checks should be applied across operators'

[I have described](#) such proposals as *'hideously illiberal'*. Limiting the public's spending power would be a highly controversial move. The government should think carefully before taking such a drastic step. We are in the process of seeing temporary restrictions on our life being lifted. Imposing new ones would be a risk and could be unpopular, as some [research has pointed out](#).

In addition, to paraphrase [a comment from the Betting and Gaming Council](#) on this issue, I can think of no other area of the economy where the government determines how much an individual can spend.

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Advertising, sponsorship and branding (Q11-15)

Questions 11-15 ask us to consider whether there needs to be new legislation on gambling advertising and sponsorship. There is a lot at stake here. Various individuals and organisations have seen this as a pivotal battleground.

While making new legislation in this area would undoubtedly be newsworthy and hit the headlines, there is no compelling reason for the government to legislate in this area. There is every reason to leave things as they are.

There are already systems in place that regulate sponsorship and advertising. Some of these are voluntary, such as the [codes and actions](#) that the Betting and Gaming Council have introduced. Others are backed by regulation, such as the Advertising Standards Authority.

Much focus has been on the sponsorship of sport by the gambling industry, and in particular, football clubs. But, as Christopher Snowdon has pointed out, [it is not just about football](#). Snooker has enjoyed a renaissance as a result of sponsorship from gambling companies. It was the '*legalisation of gambling advertising that saved the sport*', he argues.

Snowdon also points out the impact that banning gambling advertising and sponsorship will have on football:

'The financial damage that will be done to sport by having an entire sector excluded from sponsorship will be enormous. Top tier football teams will never struggle to find sponsors, but a ban would create a ripple effect and reduce revenues from top to bottom. Lower league clubs will already be hanging by a thread after a year of playing to empty terraces.'

The English Football League have also spoken out. Rick Parry, Chairman of the EFL has described proposals to ban gambling sponsorship as '*catastrophic*'. And a [press release from the EFL last year](#) drew attention to the importance of income through sponsorship when many clubs faced a '*financial knife edge*' at a time when '*its core income stream*' had been stopped by government legislation, and in '*the absence of similar levels of (financial) support being afforded to other industries*'.

There is every reason for the government not to legislate any more in this area, and to leave sports and clubs to make their own choices.

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The Gambling Commission's powers and resources (Q16-24)

Recent evidence (e.g. the collapse of Football Index) suggests that the Gambling Commission needs to be reviewed. I would agree with that.

However, what is less clear is whether any failings are the result of an inability to fulfil its objectives because of personnel and/or systems, or if there is a more fundamental problem with the organisation: its purpose, structure, and scope.

There is a danger of starting again from scratch, without really understanding where any failings in the Commission have come from.

[Some MPs are calling for an inquiry](#) into how the Gambling Commission has handled the whole affair surrounding Football Index. It is possible that an inquiry may well be the best place to start with looking at the Gambling Commission and considering any recommendations.

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Consumer Redress (Q25-28)

Consumer redress does need looking at, but so does the narrative in the terms of reference and the questions.

For example, Q27 says:

'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'

I can think of no other area where, in considering redress, concern is being given as to how the 'victim' might spend their compensation. Such a narrative needs to be challenged.

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Age limits and verification (Q29-38)

'18 is widely recognised as the age at which one becomes an adult'

'At 18, people gain full citizenship rights and responsibilities, and are trusted to participate in activities which carry risks of harm, such as drinking alcohol and smoking tobacco'

The above statements are taken from the terms of reference. I wholeheartedly agree. That is why you have to be 18 years old to bet in a bookies, enter a casino, or open an online account with a gambling company. If there are measures that the gambling industry could take to continue to prevent underage gambling, I would support those.

However, the idea (referred to in the terms of reference and in Q36) that 18-25 year olds are a distinct cohort that requires extra protection or different treatment is deeply problematic. Are they not deemed adults like the rest of us?

The government claims that:

'there have been instances of individual young adults suffering substantial gambling harm' as a result of 'moving away from home or managing money for the first time (perhaps including a student loan).'

While that maybe that is true, the government also admits that:

'problem-gambling rates among 16-24 year olds are lower than among those aged 25 to 34'.

So the evidence for focusing on the younger cohort is hardly compelling.

I have written about some of the problematic ways in which media coverage and commentators have addressed the concerns about child gambling. While there is every reason to ensure that children are not able to gamble like adults, we need to ensure that adults are not treated like children, and that the extent of child gambling is not over-exaggerated.

Further reading:

[Gambling with adult freedom](#)

[The myth of gambling children](#)

[Child gambling on the rise? I wouldn't bet on it](#)

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Land based gambling (Q39-45)

One of the real unknowns at present is the extent to which, when we come out of lockdown, we flock back to casinos, bookmakers, and seaside arcades. It therefore makes some of this section quite difficult to relate to.

In particular, the question about cashless payments (Q40) seems a question about a bygone age, considering the extent to which cash (and even use of a PIN) is rare in the age of COVID-19.

For many, land based gambling is a social activity. I very much hope that it will flourish post-Covid, at the expense of online gambling.

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About the author

Jon Bryan is a Gambling Writer and Poker Player based in Newcastle upon Tyne.

'I have played poker all my adult life: with friends, family and strangers; in homes, clubs, casinos, online, and in the 2006 WSOP Main Event. I began writing about gambling in 2017. I felt there were some voices that were not being heard, and that some things just needed to be said.'

'I have had some great times gambling, with different people and in different places. The stories about gambling harm have received a lot of publicity, especially over the last three months. What is rarely told is the extent to which many people can get enjoyment from gambling. Having gone over a year without playing poker in a casino, I have very much missed it. I am looking forward to playing again in the near future – as are many others I know.'

'My worry for the future and the outcome of this review is not just about the impact that any new regulation has on me as an individual gambler, but on what sort of society we create. If gambling is always seen through a negative lens, how can we relate to those who quite clearly enjoy it? And how does that help those who may need help with their gambling?'

Jon has [written articles for Spiked Online](#), the [Future Cities Project](#), and [The Great Debate](#), an organisation where he is Treasurer.

He has appeared on BBC discussion shows and Sky News, and spoke at an online Free Speech Babbleon in December 2020 – '[Gambling with our Freedoms](#)'. Find him on Twitter: [@JonBryanPoker](#)

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