

Advice from Digital Advisory Panel to inform the Gambling Commission's response to Government concerning the review of the Gambling Act 2005

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Introduction

This document sets out the advice provided to the Gambling Commission (the Commission) by its Digital Advisory Panel (DAP) concerning the Government's review of the Gambling Act 2005 (2005 Act).

Background

The Commission is the Government's statutory advisor on gambling, as described in section 26 of The Gambling Act 2005.

In December 2020, the [Department for Digital, Culture, Media and Sport \(DCMS\) launched its review of The Gambling Act 2005](#).

The Commission has taken input from its advisory groups. These are:

- Digital Advisory Panel (DAP)
- Advisory Board on Safer Gambling (ABSG)
- Lived Experience Advisory Panel (LEAP).

DAP's Role

[DAP is made up of people with experience in a range of digital and online industries](#). DAP's role is to advise the Commission on the digital landscape and emerging trends that may impact the gambling market, how the Commission interacts with operators, and how the operators interact with consumers. DAP also gives guidance on specific projects alongside its other roles that are detailed within [DAP's terms of reference](#). The Commission's website also includes a register of member's interests.

DAP's Advice

The Commission asked DAP to advise on the topics included in the scope of the Government's review of the 2005 Act. They also requested that the DAP highlight its recommendations that can be prioritised within the Commission's existing powers and the current legislative framework and any recommendations that fall outside the scope of the review but should be included.

DAP agreed to provide input on the following headline topics:

- online protections – including Single Customer View (SCV)

- powers and resources – including black markets
- protection of young people and online age verification
- land-based protections – including tracked play
- lootboxes.

Priority Recommendations

DAP's priority recommendations concerning the Gambling Commission's response to the Government review of the Gambling Act 2005.

DAP recommend that the Commission's advice to Government concerning the Gambling Act Review includes a request to provide the Commission with the powers and resources to:

- substantially increase the activity and capability focused on regulating online gambling without diluting the activities and capabilities focused on land-based gambling
- accelerate the implementation of the Single Customer View initiative (SCV) and increase the impact on safeguards for gamblers by insisting that aggregated spend across operators be included in scope. Capacity to support affordability and age verification should be included in a later version of SCV, but the additional challenges associated with incorporating this capacity should not be allowed to slow the initial implementation
- drive the agenda for research into markers of harm and specific gambling triggers so that this knowledge can be built into the SCV service in the future
- continue work with the Information Commissioner's Office (ICO) to ensure development of SCV can progress without breaching the Data Protection Act
- avoid investment in technology to block access to black market and illegal gambling websites. Instead, develop the capability and supporting technology to monitor and track these activities to create the data and intelligence to allow preventative measures to be deployed through cooperation with other organisations
- request an increase in fees from operators and a less cumbersome mechanism for adjusting fees in the future to allow the Commission to develop the improved online and digital capabilities described in this document
- continue to monitor and build understanding of best practice in age verification practices from other industries and other public-sector bodies. Explore ways to ensure operators apply best practice and achieve improved outcomes in the protection of children online.

Online Protections

DAP's advice on protecting online gamblers, including rules to minimise the risks associated with online products and the use of technology to support harm prevention.

Individuals losing more than they can afford is a harm associated with gambling. The harm can be significant even at low spending levels because the spend at which damage begins depends on the customer's discretionary income. Therefore, affordability must be central to any online safeguards afforded by legislation or regulation of gambling.

Operators are not sufficiently equipped to support and protect their customers because their access to data about their customers is limited. They do not understand the discretionary income of their customers, or their aggregated gambling spend. Problem gamblers tend to

bet through several websites and mobile apps, and each operator can only see the expenditure made using their app and/or website. This problem can only increase as online gambling continues to grow.

Since it was formed in 2018, DAP has been an advocate of the Single Customer View initiative (SCV). Most recently, in [the DAP advice on the impact of online platforms on gambling-related harm](#). We recommend that large operators be required to form an arms-length joint venture that will provide a service that will consolidate a SCV for all online gambling activity, so improved interventions are possible for both problem gamblers and gamblers at risk.

Operators should not have access to each-others transactional data or information which could be used for commercial advantage. The service could be developed to provide operators with risk coefficients based on affordability and aggregated spending. Although the Betting and Gaming Council (BGC) are developing a pilot for SCV, in parallel, we recommend that the Gambling Commission continue to drive the agenda for research into best practice in the use of markers of harm so this knowledge can be built into SCV in the future.

The Information Commissioner's Office (ICO) provided input into how SCV could be developed. Some stakeholders were concerned that the more ambitious SCV implementation options would likely put the industry in breach of the [Data Protection Act 2018](#). However, the ICO advised that this work would be classified as a public task, and the ICO would support the SCV initiative by issuing guidance to the industry and working with the Commission to ensure compliance.

We note that the implementation of SCV could create friction when accounts are created. That is, it will be more time consuming to create an account. We do not think this is a bad thing because it will create an opportunity for operators to exercise their duty of care in an industry consistent way.

Regulatory Powers and Resources

DAP's advice on the gaps in the Gambling Commission's powers and resources, including views on current funding arrangements and the Commission's research and prevention activity.

DAP advise against investment in technology to block access to the black market and illegal gambling websites. Any technology block can be avoided with an elementary understanding of the internet using technologies such as Virtual Private Networks (VPNs). The investment would be significant and additional protection limited.

Instead, DAP recommended that the Commission develop the capability and supporting technology to monitor and track black market and other illegal gambling. This activity will provide the Commission with data and intelligence that will allow preventative measures to be deployed through cooperation with other organisations, such as:

- payment blocking - banks and other financial institutions can be encouraged to prevent the transfer of funds identified to organisations involved in illicit activities

- advertisement blocking - platform companies engaged in online advertising such as Google and Facebook can be encouraged to prevent online advertisement in the UK for the same organisations.

This is an example of a capability that the Commission will need to increase and refine to meet any growth in illegal online gambling.

The Commission need to increase the activity and capability focused on regulating online gambling substantially. The activities and capabilities focused on land-based gambling are still essential and must be continued. Still, online gambling products and services are developing rapidly, and the required capabilities are different, and they will evolve more quickly.

Resources can be a more practical barrier to the Commission than its powers, so we recommend that the Commission request an increase in fees from operators and a less cumbersome mechanism for adjusting fees in the future to allow the Commission to develop improved online and digital capabilities. The operators are experiencing unprecedented growth online, so the demand for increased fees is not unreasonable to ensure customers are protected. It is unrealistic for the Commission to create the required capabilities within the existing funding. The required capabilities will include:

- more capacity for proactive online compliance work – including thematic work across operators
- increased forensic accountancy and data analytical expertise
- greater capacity to assess and analyse novel and innovative business models, including the fast-emerging cryptocurrency and blockchain economies
- building understanding of best practice in age verification and developing strategies to ensure operators are at the forefront of utilising this technology to achieve the best outcomes possible
- capacity for increased work with other regulators and/or authorities on issues that cross organisational remits
- increased capacity to obtain and analyse industry data at scale, in depth and with an increasing frequency
- ability to proactively detect and disrupt illegal gambling websites
- increased research capacity – to build an evidence base on gambling harms, markers of harmful gambling and risks associated with gambling products.

Protections for Children and Young People

DAP's advice on best practices in online age verification and available data and technology.

Protection for young people must be a priority because the [Gambling Commission estimate 55,000 children are problem gamblers in Great Britain](#). Many forms of gambling will cause gambling harms, and some of them are legal for children; however, [three per cent of 11-16 year olds report spending their own money gambling online in the past seven days and research indicates this is increasing](#).

DAP recommend more is done regarding the quality of checks and consistency of approach to protecting children and young gamblers from accessing commercial gambling.

The Department for Digital Culture, Media & Sport (DCMS) and the Department for International Trade have jointly issued a [Directory of UK Safety Tech Providers](#) that include a range of technology options for age verification online. Although the Commission does not specify to operators the precise approach they should take to age verification, we recommend that the Commission seek additional resources to ensure they have a comprehensive understanding of the technological opportunities that are available. This would better enable the Commission to develop strategies to encourage the operators to adopt best practice and achieve improved outcomes.

Activity to develop this capacity could include engaging with HM Revenue and Customs (HMRC) to understand their methodologies for age verification and continue to meet with data organisations, such as Experian, to keep up to date with what is possible.

The Commission's compliance assessments of gambling operators already focus on age verification. This relies, however, on manual assessments of a relatively small sample of customer accounts to check age verification processes were applied appropriately. We recommend the Commission seeks resources to explore how technology could allow more automated checking of how operators deliver age verification outcomes – this would allow much larger samples of accounts to be audited as part of compliance assessments.

Land-based Protection

DAP's advice on the use of cashless technologies, tracked play in land-based environments, local authority powers and machine allocations in casinos and pubs.

Land-based protection is a lower priority for DAP than the topics above; we focus primarily on digital channels. However, the potential use of digital technology to protect consumers is not limited to online gambling. DAP recommends the review of the Gambling Act maximised opportunities presented by the trend in the United Kingdom (UK) towards cashless payment and the use of apps running on smartphones to improve protection in land-based play.

Great Britain has been gradually moving towards a cashless society – a trend significantly accelerated by Covid-19. App-based solutions can benefit consumers and operators, but they can also be a valuable tool in improving gambling safety. Increased use of apps would provide:

- better quality data providing a more comprehensive view of an individual's gambling behaviour
- opportunities to set spend limits, self-exclusion options and other gambling management tools
- mitigation of the risk that otherwise consumers will circumvent land-based controls and move to online gambling

One of the theoretical benefits of restricting cashless payments is to maintain friction in how easily and quickly players can gamble. In practice, it appears unlikely that this potential benefit is being realised. Apps could be used more effectively to achieve this goal – for example, by requiring a pin or two-factor authentication - or other design features - to cause a greater level of friction where this was deemed helpful.

If an app-based approach was developed, this should be an alternative to land-based premises introducing untracked contactless payments. If both were offered, it would be not

easy to incentivise customers to use the app-based approach. It should be recognised that even with a shift to cashless transactions, cash will still be used by some consumers, and robust player protection strategies will still be needed for these players.

A challenge for app development is to find an option that is useful for all participants in one app experience and to have valid reasons not to use cash as well as, delivering safer gambling objectives. Quick Response (QR) codes would be a fast way of transferring money from an app to a gaming machine and is relatively easy and cheap to implement. QR code technology is a very highly proven, secure and straightforward method.

Other Priority Topics

DAP's priority recommendations on other topics for legislative change beyond the scope of the review outlined previously.

Loot Boxes

There is increasing evidence of the link between gaming loot boxes and problem gambling because loot boxes are structurally and psychologically akin to gambling. This is relevant to the Gambling Commission because large numbers of children are encountering lootboxes in online and app-based games. Also, the UK government is considering how best to respond to concerns that lootboxes are seen as a gateway to problematic gambling.

The Commission's remit does not currently cover the potential gaming loot box gateway to problematic gambling. The Commission interventions on loot boxes are restricted to activities captured under the current definition of gambling, such as those that lead to financial rewards. DAP recommends that the accountabilities and responsibilities for this broader issue be clarified with the DCMS to ensure this important topic has an owner. The owner of this issue will need to be equipped with a clear remit, powers and resources so that effective action can be taken where needed.