



**WESLEY
COMMUNITY
LEGAL SERVICE**
An Activity of Wesley Mission

Our ref: RAB
Your ref:

13 November 2003

Thomas G Parry
Chairman
IPART
PO Box Q290
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Dear Professor Parry,

REVIEW OF GAMBLING HARM MINIMISATION MEASURES

Please find enclosed our submission in hard copy and floppy disk.

Yours faithfully,

RICHARD BRADING
PRINCIPAL SOLICITOR

Liability is limited by the Solicitors Scheme approved under the Professional Standards Act 1994 (NSW)

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WESLEY COMMUNITY LEGAL SERVICE SUBMISSION TO
INDEPENDENT PRICING AND REGULATORY TRIBUNAL REVIEW INTO
GAMBLING HARM MINIMISATION MEASURES

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Wesley Community Legal Service, Sydney

What we do

Legal problems are inevitable for many problem gamblers¹²³. Wesley Community Legal Service provides legal advice and court representation for problem gamblers and their families in N.S.W. We are funded by the Casino Community Benefit Fund.

The service works closely with gambling counselling services throughout the State and not only deals with the immediate legal problem facing the client but seeks to assist with the rehabilitation of the problem gambler.

Criminal matters

About three-quarters of the work that we do involves criminal matters, typically where a problem gambler has been charged with a gambling-related crime. In most of these cases, the client is ineligible for Legal Aid, but cannot afford private legal representation.

We also represent persons in the Licensing Court who are prosecuted for contravening Casino exclusion orders.

Unlike traditional Legal Aid, it is important to address long-term issues with the gambler and their family rather than solving the immediate legal crisis. Traditionally Legal Aid solves the immediate legal problem.

¹ Productivity Commission *Australia's Gambling Industries*, 4.11 and elsewhere.

² Meyer, G., & Stadler, M.A. 91999) *Criminal behaviour associated with pathological gambling*. *Journal of Gambling Studies*, 15, 29-44.

³ Potenza, M.N. Steinberg, M.A., McLaughlin, S.D. Wu, R., Rounsaville, B.j. & O'Malley,SS, (2000) *Illegal behaviours in problem gambling: analysis of data from a gambling helpline*. *The Journal of American Academy of Psychiatry and the Law*, 28(4), 389-403.

This unique legal service has reduced recidivism dramatically with only a small number of clients re-offending. There is a significant benefit to the community when an offender can be diverted from the criminal justice system and pointed in the direction of rehabilitation.

The service has also provided the Courts with a detailed synopsis of the nature of problem gambling by the effective use of Gambling Counselling Reports. There has been a greater understanding of the condition by the Courts due to the work of this service. In fact a number of Magistrates of their own initiative have referred problem gamblers to our legal service.

Rehabilitation, not punishment or deterrence is the most effective method of treating a problem gambler. The majority of gamblers commit “white collar” crimes and are first time offenders. Therefore, the emphasis on the long-term solution is a vital part of our work.

Civil matters

WCLS provides legal advice and casework for **problem gamblers** in relation to the following legal issues:

- Gambling-related debts
- Insolvency
- Relationship breakdown & family law
- Potential claims by or against gambling institutions
- Deeds of Self-Exclusion

WCLS provides legal advice and casework for **family members** of problem gamblers in relation to the following legal issues:

- Gambling-related debt collection
- Insolvency
- Relationship breakdown

WCLS also provides legal advice to **problem gambling counsellors** on legal issues that are relevant to their clients and counselling, such as court report writing, privacy, ethical issues and gambling laws.

CASE STUDIES

1. “Meg” is a young single woman aged 34. She was a regional bank manager with a large regional bank. Over a period of 4 years she stole over \$500,000 from her employer to feed her gambling addiction. Her gambling commenced about 7 years prior to the first offence. It began as “social gambling” but escalated when her single friends married and had children. Meg felt more and more socially isolated and left out.

The gambling helped her to escape from her loneliness. She was the youngest sibling of 4 and came from a highly respected family. Her father was a retired Police Officer. Meg felt that she had to live up to very high expectations particularly from her father. Her mother pressured her about getting married and settling down.

All of the money was gambled on the poker machines at a large regional club. An audit of the ATM system was finally done and Meg came forward to confess her crimes. She was shocked at the amount.

Meg sought counselling for her gambling addiction and was a keen and responsive recipient of treatment. Her prognosis by all accounts is excellent.

Due to the large amount involved and the position of trust she held, Meg was sent to prison for one year.

2. “Kate” is a 32 year old mother of an 8 year old child. Kate pleaded guilty to stealing \$495,000 from her employer, although there was a short fall of \$1.5 million which the Crown could not prove against her.

The amount was taken over 2 years. All of the stolen money was gambled at a large Sydney club. She was regarded by the club as their best patron. One night, she managed to lose \$70,000 on the club's machines. Due to the availability of Player Activity Statements (which the Club reluctantly provided to us) we were able to establish to the Court that the money had in fact been lost gambling over a short time.

Kate sought help through the Chinese gambling counselling service and was committed to redressing the problem.

Kate was unsure when the gambling had escalated and did not have an insight as to why it got out of hand. Her marriage had failed and she did not have a steady family network. She did not get on with her mother and her father had died when she was a child. She always felt worthless and not as good as her siblings. She did not own any property and had very little assets. Particularly with her cultural background this was regarded as a failure.

When she gambled she felt a sense of excitement and self worth particularly if she hit the odd jackpot. The staff all knew her and made her feel important. She enjoyed the excitement and the attention that was so lacking in her life.

Although Kate was a seemingly vivacious and outgoing person she was struggling with a deep sense of worthlessness.

From her counselling sessions Kate was able to gain insight into herself. The counselling was very effective and her prospects for rehabilitation are excellent.

Due to the large amount involved the Judge had no option but to send Kate to prison for 6 months.

3. "Bill" is a divorced 50 year old who ran his own mobile telephone business. Bill has a severe gambling addiction. Bill was a person who originally sought

the advice of this service in relation to his rights against a club where staff gave him free alcohol until he was so intoxicated he fell off bar stools.

The matter settled with the club . Bill required Court representation in the Licensing Court for re-entering the Casino in contravention of an exclusion order. Bill was placed on a good behaviour bond on the condition that he receive counselling.

4. "Steve" is a 45 year old married man with 2 young children. He was the manager of a service station and was highly regarded by his employers. He was efficient and ran an extremely successful business. He was working long hours and would gamble after work to "unwind". Steve won a major jackpot on the poker machines and he gambled more and more. He was running up credit card debt and bills were not being paid. His wife was working as a nurse which enabled her to have some financial independence. However, the marriage was in difficulties and his wife ordered him out of the house.

The gambling took over his life. He was living in a bedsitter and when he had no more funds available he took money from the safe at the service station. Over a period of 8 weeks he stole and gambled \$45,000.

When he realised that he could not repay the money he wrote a note to his wife and employers and confessed to his crime. He then tried to take his own life by gassing himself and overdosing on drugs. His wife saved his life.

The magistrate in the Local Court sentenced him to a term of 2 years in prison. We appealed and the sentence was suspended and Steve was placed on a Bond.

He and his wife reconciled. It was conditional that he seek help for the gambling addiction. He did so through a local CCBF-funded gambling counselling service.

5. "John" was a young father of 4 children and happily married to Mary. He also started to gamble to relax. He was offered a partnership in the business where he was employed and his gambling became more frequent as the responsibilities grew.

During this time Mary's father was diagnosed with cancer and she was feeling enormous personal grief. John was gambling more and more and any bonuses made were quickly spent. Mary and John were behind on their mortgage payments. They were arguing more and more about their financial problems. Mary knew that John gambled but she did not know the extent of it.

They separated at this time. John was then charged with a drink driving offence but failed to appear at Court and consequently the matter was dealt with in his absence. He lost his license for 18 months.

John then applied to the court to overturn the license disqualification on the basis that he did not attend court because his father-in-law died on that day. The problem was his father-in-law was very much alive. The prosecution confirmed this and John was charged with perjury. He was sentenced to 12 months imprisonment.

We appealed to the District Court and the sentence was suspended and John was placed on a Bond.

The marriage reconciled and John continues to have counselling for his gambling.

COMMENTS ON LISTED HARM MINIMISATION MEASURES

A. "CIRCUIT-BREAKERS"

1. Compulsory shut-down of gambling venues

There are reports of problem gamblers who gamble for lengthy periods, even days on end. In theory, the compulsory shut-down of gambling venues forces gamblers to go home in the early hours of the morning.

Our observations of gamblers in clubs, hotels and casinos in the early hours of the morning is that they are almost all regular gamblers. Often they congregate in a particular area of a larger gaming room, and we could sense that they had a group feeling. They knew each other, and they could identify with the others in the group as they all had gambling in common. Presumably they have adjusted their lives to accommodate the shutdown.

However, the compulsory shut-down does not directly address problem gambling. A problem gambler who has to go home in the early hours of the morning is still a problem gambler. He or she will return to gamble when the venue opens up again.

Also, the existence of the casino as a 24 hour a day venue means that problem gamblers in the metropolitan area who are desperate enough can simply get the Star City bus or a taxi to the casino when the shutdown takes effect.

2. Ban on smoking in gambling venues

Many observers have noted the high percentage of regular gamblers who smoke⁴. Two points need to be made.

Firstly, smoking kills a lot more gamblers than gambling does. The Productivity Commission estimated that between 35 and 60 persons commit gambling-related suicide in Australia each year. This is a very small figure by comparison with smoking-related death. Then there are the many other health costs of smoking, passive smoking, occupational health and safety and so on. So the primary reason for banning smoking in gambling venues should be the health benefits from less smoking.

⁴ Petry, N.M. & Oncken, C. (2002). *Cigarette smoking is associated with increased severity of gambling problems in treatment-seeking gamblers*. *Addiction*, 97, 745-753

Secondly, the ban on smoking forces smokers to have occasional breaks from gambling so that they can go to a smoking area for a cigarette. This may be outside where the air is cooler and the atmosphere more conducive to considering whether to continue or terminate a gambling session.

Figures from Victoria show a significant drop in gambling expenditure once the smoking ban came in and all sorts of creative attempts by industry to get around it. For example, glassed-in smoking rooms looking out over the gaming machine area.

3. Periodic shut-down of individual machines

This proposal should be considered in the light of Canadian research into video lottery terminals⁵. Because of cultural differences, we feel that research should be undertaken into the effectiveness of the proposal, as the cost of redesigning machines to periodically shut-down would be significant. Also, it would be possible for a problem gambler to simply move on to another machine.

4. Periodic information messages to gamblers using gaming machines

We think that this proposal has merit. Perhaps something simple like “you have been playing this machine for XX minutes and have lost \$YY” should periodically pop up. See the Canadian research referred to above.

5. Restrictions on alcohol consumption by gamblers

A significant number of problem gamblers also have problems with alcoholism⁶. The problem has diminished since free alcohol was banned, but it is still a matter of concern.

⁵ Schellinck, T., & Schrans, T. (2002). *Atlantic Lottery Corporation Video Lottery Responsible Gaming Feature Research – Final Report*. Focal Research Consultants

⁶ Welte, J., Barnes, G., Weiczorek, W., Tidwell, M., & Parker, J. (2001) *Alcohol and gambling pathology among U.S. adults: prevalence, demographic patterns and comorbidity*, *Journal of Studies on Alcohol*, 62: 706-712

In particular, we feel that the provision of alcoholic drinks to gamblers at their machines should be banned. The gambler who has to get up and go to the bar to get a drink is given the opportunity to decide whether or not to continue a gambling session.

6. Performance of self exclusion schemes

Gamblers who self-exclude have more serious problems⁷.

There is a considerable range of effectiveness among self-exclusion schemes, depending on the location and enthusiasm of management.

Generally self-exclusion has proven highly effective in country areas where people are known and there are few accessible gambling venues.

The problem in cities is that there are too many venues and it becomes too difficult for staff to remember pictures and check on large numbers of patrons.

The Australian Hotels Association's self exclusion scheme provides for a problem gambler to attend an interview with the AHA counsellor or a lawyer and to be able to self-exclude from a number of hotels at the same time. The main problem with the AHA self exclusion scheme is the delay from the point of crisis when a problem gambler wants to sign a self exclusion deed, and the actual signing of the deed at the counsellor's office some days later. During that delay, many problem gamblers will "cool off", and return to more gambling losses. That results in a further, and more serious crisis, as the problem gambler's situation deteriorate. Another problem is that the AHA will only process self exclusions from AHA member hotels, leaving the problem gambler to contact other hotels, clubs and the casino separately.

The ClubsNSW scheme permits a problem gambler to self-exclude at the venue at the time of crisis, but fails to permit the problem gambler from self-excluding from more than one venue at a time. The problem gambler must trek around from club to club

⁷ Ladouceur, R., Jacques, C, Giroux, I, Ferland, F., & Leblond, J. (2000) Analysis of a casino's self-exclusion program. *Journal of Gambling Studies*, 16(4), 453-460

with a fistful of photos and sign a form at each club. This would put off all but the most determined problem gambler.

The Star City scheme, like ClubsNSW only accepts self-exclusion from the casino.

The BetSafe scheme, is processed at the gambling venue immediately on request of the problem gambler, and will facilitate multiple exclusion. BetSafe clubs will also take a photo of the problem gambler which saves a trip to a photo booth.

The effectiveness of self-exclusion is highly variable. Some venues require door and gaming staff to check self-exclusion photos at the beginning of each shift. Others fail to display photos or let staff illustrate the photos with moustaches and other scribblings.

We believe that self-exclusion is a highly effective means of assisting recovering problem gamblers and that there should be a standardized procedure covering all gambling venues enabling the problem gambler to self-exclude quickly from all nominated gambling venues.

The process of self-exclusion should also relate to the winning of prizes, so that good identification must be provided by a prizewinner. The law should require that an excluded gambler will forfeit any prize won.

Finally, the current law provides that problem gamblers must be given an opportunity to seek legal advice prior to signing a self-exclusion agreement. While no doubt inserted by some well-meaning lawyer, this provision has resulted in many problem gamblers being discouraged from signing self-exclusion agreements. It is unnecessary as the only possible advice that should be given to a problem gambler is to sign the agreement.

B. INFORMATION FOR GAMBLERS

7. Requirements to display certain signage

We agree that gamblers need information about gambling, and warnings about the dangers of gambling, and information about help services. But the standard and

effectiveness of signage in N.S.W. is not good and should be reviewed in a similar way to a recent review in Western Australia⁸.

Overseas studies indicate that warnings have little effect on consumption⁹.

8. Display of clocks in gaming machine areas

Because gamblers easily lose track of time and end up spending more than intended, the display of clocks is a cost effective reality check.

However, the placement of clocks in gaming rooms is not helpful. They are usually located high up or in corners and are hard to find even if you are looking for them.

We note that some gaming machine manufacturers are now incorporating clocks into the screens of gaming machines and we consider that this should become mandatory for all new models of gaming machine.

9. Information on brochures required in gaming venues

We support the provision of information about the risks of problem gambling and availability of counselling and other help services in brochures.

10. Information on betting tickets, lottery and keno entry forms

We support the inclusion of the G-line telephone number on tickets and entry forms.

11. Role of community services, including gambling counselling services

Information about the work of Wesley Community Legal Service is set out at the beginning of this submission.

There are some studies of overseas treatment programs¹⁰¹¹¹²¹³.

⁸ Western Australia Problem Gambling Support Services Committee *"Qualitative research to develop a communication strategy for problem gamblers 2003"*

⁹ McGowan, R.A. (2001) *Government and the Transformation of the Gaming Industry*. Northampton, MA Edward Elgar Publishing Inc

¹⁰ Shaffer, H.J. LaBrie, R., LaPlante, D., Kidman, R., & Korn D.A. (2002) *Evaluating the Iowa Gambling Treatment Program*. Harvard Medical School, Division on Addictions.

¹¹ Stinchfield, R., & Winters, K.C. (2001) Outcome of Minnesota's gambling treatment programs. *Journal of Gambling Studies*, 17(3), 217-245.

12. Contact cards for counselling services

Contact cards are a very useful way for a problem gambler to have access to help when needed. It is very important to have assistance available at the time when the gambler is motivated to take some action to deal with the problem, usually after a major loss. We know of some problem gamblers who carried around contact cards for weeks or months before actually calling the number.

13. Compulsory display of payout ratios and probability of winning specific prizes

We support the provision of clear, simple information on gaming machines to enable gamblers to “shop around” between machines and venues. This has been the case for some years in the A.C.T¹⁴.

While most gamblers are not going to be concerned about the average theoretical rate of return of a gaming machine, some will take the trouble to choose a machine with a higher rate of return.

While we support the provision of this information to facilitate consumer choice, we do not think it will have any impact on problem gambling.

14. General advertisements highlighting problem gambling

We refer you to the recent Western Australian report¹⁵ which recommended television advertising using the Victorian model. We strongly support the use of such advertising in N.S.W.

¹² Robson, E., Edwards, J. Smith, G., & Colman I (2002) Gambling Decisions: An early intervention program for problem gamblers. *Journal of Gambling Studies*, 18(3) 235-255

¹³ Hodgins, D.C. & Makarchuk, K. (1998) *Becoming a winner: defeating problem gambling*. Calgary, Alberta, Canada, University of Calgary Press

¹⁴ Section 49 Gaming Machines Act, A.C.T.

¹⁵ Western Australia Problem Gambling Support Services Committee “Qualitative research to develop a communication strategy for problem gamblers 2003”

15. Display of monetary value of credits, bets and wins

We consider that there is no rationale for displaying “credits” rather than dollars and cents on modern electronic gaming machines other than to remove the player from the realisation that real money is being lost. The cost of requiring all new machines to display money should be the same as the display of credits.

16. Information for individual players on their gambling session.

We believe that the best way to provide information on each gambling session is at the time the gambler receives a win or cashes out. So a screen would come up showing the time taken by the gambling session, the number of bets made, and the total spent. The information provided should be simple, and the most important fact is to tell people how much they have lost (or won) in a particular session.

We consider that the provision of this information on the screen in this way would help a lot of gamblers avoid problems.

C. LIQUIDITY CONTROLS

17. Requirement for large payouts not to be in cash

The \$1,000 cash limit has been in place for some time and we consider that it has helped many gamblers keep their wins rather than simply going back and losing it all. It doesn't really help those with a serious addiction, rather it helps those who have a mild problem or perhaps are a bit elated at having a big win.

18. Prohibition on providing credit for gambling

The prohibition on providing credit for gambling has greatly helped problem gamblers with serious addictions and should be continued.

19. Requirement to locate ATMs away from gambling areas

One common way a spouse or partner can find out if their nearest and dearest has a gambling problem is to check their bank statements. When a person has made multiple withdrawals of cash from an ATM at a gambling establishment on the same day, you can be pretty sure that they have a gambling problem.

We consider the requirement to locate ATMs away from gambling areas to be a bare minimum. In some venues, the ATM is located immediately outside the gaming room, and only a few metres from the nearest machine.

20. Restrictions on note acceptors

We were surprised by the findings of the University of Sydney researchers into the effect of removing note acceptors and wondered whether a universal ban on note acceptors would produce a different outcome than the research suggested.

We would prefer to see note acceptors used in conjunction with a card system whereby gamblers could electronically limit their gambling expenditure.

21. Lower limit on maximum bets on gaming machines

The University of Sydney found that a lowering of the maximum bet limit would assist some problem gamblers. We believe that the limit should be lowered.

22. “Pre-commitment” or “smart” cards that enable financial limits to be set

“Club” or loyalty cards are used by most regular gamblers at clubs, hotels and the casino. We believe that these cards could easily be used to facilitate account-based gaming whereby each gambler can set a daily limit on expenditure. This would greatly reduce the many instances where gamblers spend more than they want.

23. Restrictions on daily cash limit in ATMs close to gambling venues

We support this proposal. ATMs make it too easy for gamblers to access further cash when chasing their losses.

24. Reducing the maximum permissible win

We support this proposal. Clearly, the amount of a possible win effects the mind of those who gamble.

25. Further possible changes to affect the rate of loss of play per hour

We feel this needs more research, in particular comparing the effect of high intensity gaming machines used in N.S.W. and low intensity machines used in other parts of the world.

26. Forced payment of wins when certain level is reached and payment then to be only by cheque

We support this proposal. It is common sense that gamblers who continue to gamble after a certain win will simply gamble away their win to nothing.

D. RESTRICTED PROMOTION OF GAMBLING

27. Controls on advertising

We support the existing restrictions on advertising. A parallel can be drawn with tobacco advertising.

28. Controls on player reward schemes

We support the current restrictions on player reward schemes, particularly the prohibition on cash prizes.

29. Restrictions on promotions and other inducements to gamble

We support the current restrictions on promotions and other inducements to gamble.

30. Controls on gaming machine artwork

We doubt that gaming machine artwork has any effect on problem gambling.

31. Possible elimination of double up and other similar gamble features

We would like to see some research into these features.

32. Availability of alcohol and other refreshments to gamblers

There is no doubt that alcohol reduces inhibitions and results in some people gambling more than intended.

Recent research suggests a link between gambling-related problems and the heart's cardiac reactivity to alcohol¹⁶.

E. COMMUNITY/COUNSELLING SERVICES

33. Requirement for gambling operators to enter into agreement with counselling services

We support this requirement.

34. Training of staff in gaming machine venues

We would like to see staff trained to carry out self-exclusions on the spot. We do not think the delay associated with many self-exclusion schemes is helpful.

F. TECHNICAL MEASURES

35. Slower reel speeds

We consider more research is needed into this.

36. Removal of visual and sound stimuli

There is research showing that various forms of gambling are associated with a perception that a "big win" is imminent¹⁷, and that the presentation of symbols on a machine affect gambling behaviour¹⁸.

37. Requirement for human intervention in large payouts

We support this requirement.

38. Requirement for natural light in gambling venues

We doubt that the availability of natural light has any impact on recreational or problem gambling.

¹⁶ Brunelle, C., Assaad, J., Pihl, R., Tremblay R., & Vitaro F (2003) *Exaggerated Ethanol-Induced Cardiac Reactivity as an Indicator of Increased Risk for Gambling*. *Psychology of Addictive Behaviours*, 17(1), 83-86

¹⁷ Wohl, M. & Enzel, M. (2003) *The effects of near wins and near losses on self-perceived personal luck and subsequent gambling behaviour*. *Journal of Experimental Social Psychology* 39, 184-191

¹⁸ Ladouceur, R., & Sevigny, S. (2002) *Symbols presentation modality as a determinant of gambling behaviour*. *Journal of Psychology* 136(4), 443-448

39. Requirement for gambling patrons to be visible to people outside the gambling venue

We do not think this would have any effect on problem gambling.

40. The impact of music being played and display of lights when a win takes place

We consider that research should be undertaken into the effect of music and lights on the development of problem gambling before any possible elimination is imposed.