

Betting, Gaming, Lotteries and Amusements (Amendment) Bill

Consideration Stage Briefing

Debate: 15th February 2022

- On Tuesday 15th February, consideration stage of the Betting, Gaming, Lotteries and Amusements (Amendment) Bill¹ will be debated.
- CARE NI supports Amendments 2, 4, 5 and 6.
- CARE NI Supports MLAs opposing clause 2 and clause 6.
- Northern Ireland has the highest incidence of gambling related harm across the UK and Ireland. This Bill does not even scratch the surface of what is needed to help people who find themselves affected by gambling harm.
- CARE NI is disappointed that the Bill has no provisions that set out a strategy or seek to regulate gambling to help people who face gambling harms
- **We urge to attend the debate and support Amendments 2, 4, 5 and 6. and oppose clauses 2 and 6 as set out in this briefing.**

Introduction to CARE in Northern Ireland

1. CARE (Christian Action Research and Education) Northern Ireland believes the current legislative and policy framework in place in Northern Ireland is fundamentally flawed. It is failing our society and especially those who are vulnerable to gambling-related harm. **We believe a public health approach to responding to the challenges posed by gambling-related harm is the right approach to take.** Given the historically high rates of individuals who demonstrate gambling related harm, we believe that there should be no liberalisation of gambling, rather appropriate regulation.

Overview of Gambling Law in Northern Ireland

2. This Bill represents the first major change in Northern Ireland since the Betting, Gaming, Lotteries and Amusements Order became law in 1985. The current legislation is clearly out of date and not fit for purpose. It is disappointing that the Bill fails to advance meaningful protection for those who suffer from gambling related harm.
3. The law in Northern Ireland has not kept pace with advances in technology. However, online gambling is not the only area in which Northern Ireland lags behind the rest of the UK. Northern Ireland lacks statutory regulation for fixed odds betting terminals (FOBTs), modern rules for gambling advertising or a statutory ban on the use of credit cards to fund gambling. With the increased amount of gambling opportunities since 1985, the impact of up-to-date legislation and the lack of a regulator beyond the Department of Communities (DoC) and local authorities is evident. It is disappointing that none of this is addressed in the legislation. In summary, the Bill currently before the Assembly is disappointing in its lack of ambition.

The Problem of Gambling-related harm in Northern Ireland

4. The issues of gambling related harm and the prominent level of gambling harm in Northern Ireland are well known. At each stage of this Bill's progress the problems have been highlighted. **In evidence to the Committee the issues of debt, public health, family breakdown and increased**

¹ [Bill](#) as introduced and [Explanatory and Financial Memorandum](#)

risk of suicide were all highlighted. Given the problem is well known and well-rehearsed, it is disappointing that it has not been addressed in the Bill by either the Minister or the Committee.

5. It is difficult to believe that the most recent data available in relation to gambling-related harm is the 2016 study undertaken by the DoC, which found that 2.3% of the adults surveyed were deemed to be "problem gamblers".² If scaled up to the population as a whole, the number of individuals experiencing gambling-related harm would equate to more than forty thousand adults living in NI.³ **This survey is now 6 years out of date.** Northern Ireland has endured a pandemic, that saw gambling associated harms rise in other parts of the UK.^{4 5} It is disappointing that no gambling harm reduction strategy has been proposed and the DoC has not sought to update their research.
6. The latest figures for the UK and Ireland are set out in the table below compares the rates of 'problem gamblers' across the UK and Ireland:

Country	Year	Problem Gamblers	Moderate Risk	Low Risk
England ⁶	2021	0.3%	0.7%	1.9%
Wales ⁷	2016	0.8%	3.3%	
Scotland ⁸	2017	0.8%	0.9%	2.7%
Young people across GB (11-16) ⁹	2020	1.9%	Not published	
Northern Ireland ¹⁰	2016	2.3%	4.9%	6.7%
Ireland ¹¹	2015	0.8%	Not published	

7. To put the data in context, there are the same total number of people who find themselves in gambling related harm in the six counties that make up Northern Ireland (40,000 people) as there are problem gamblers in the rest of the 26 counties of Ireland put together.¹² At the time the Department reported in 2016, the problem gambling rate in England was 0.5%, Scotland 0.7% and Wales was 1.1%. In 2016, The NI figure was staggeringly over four and a half times greater than that of England. In 2019, when the NIO report on gambling in NI was debated in the Lords, the level of problem gambling was described as "extraordinary" by the NIO Minister.¹³

The Bill Provisions/Amendments

Opening of Licensed Offices and Bingo Halls on Sundays and Good Friday

8. **Clauses 2 and 6** – extend opening hours for Bingo halls and betting shops. Clauses 2 and 6 propose to extend hours to Sundays and Good Friday. This leaves Christmas Day as the only day of the year when licensed offices and bingo halls must be closed.

² <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/2016-ni-gambling-prevalence-survey-main-report.pdf>

³ Based on the [mid-year 2020 population](#) of 1.896m (all ages). 2.3% would mean 43,597 problem gamblers.

⁴ [Study reveals impact of lockdown on the gambling habits of sports bettors | About | University of Stirling](#)

⁵ In international studies the prevalence of gambling has reduced, but for those affected by gambling harm the harm has increased. The picture is mixed, and a study is urgently needed in Northern Ireland to determine what the accurate picture is here. See international comparison: [The impact of COVID-19 on gambling and gambling disorder: emerging data \(nih.gov\)](#)

⁶ Statistics on participation and problem gambling for the year to September 2021. Gambling Commission, October 2021, <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/statistics-on-participation-and-problem-gambling-for-the-year-to-september>

⁷ <https://www.gamblingcommission.gov.uk/PDF/survey-data/Participation-in-gambling-and-rates-of-problem-gambling-%E2%80%93-Wales-2016.pdf>

⁸ <https://www.gamblingcommission.gov.uk/PDF/survey-data/Participation-in-gambling-and-rates-of-problem-gambling-Scotland-2017.pdf> No question on gambling was included in the 2018 survey

⁹ [Young People and Gambling 2020](#), Gambling Commission, 5 November 2020, <https://www.gamblingcommission.gov.uk/statistics-and-research/publication/young-people-and-gambling-2020>

¹⁰ <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/2016-ni-gambling-prevalence-survey-main-report.pdf>

¹¹ [NACDA - Prevalence of Drug Use and Gambling in Ireland and Drug use in Northern Ireland - 2014/15 Drug Prevalence Survey: Gambling Results \(drugsandalcohol.ie\)](#) - see Tables 8.1 and 8.2, page 14

¹² OECD estimates the population of Ireland to be almost 5 million. 0.8% of the population of Ireland is c.40,000 which is equal to 2.6% of Northern Ireland population

¹³ <https://hansard.parliament.uk/pdf/lords/2019-09-09> Column 1395

- a. Given the levels of problem gambling in Northern Ireland, it is disappointing that the first substantive clause in the Bill permits more opportunity for gambling to take place. This change in Sunday opening hours represents an almost 17% increase in shop opening hours.
 - b. Several MLAs at Second Stage pointed out the anomaly that betting shops are open on Sundays across the border and this has a negative effect on the competitiveness of betting shops in Northern Ireland. While it is noted that the divergence of opening hours disadvantages businesses here, it is important to note that the rate of problem gambling is much higher on this side of the border. To further permit betting shops to open, without proper regulation to alleviate the societal problems associated with gambling harm, would be irresponsible.
 - c. Moreover, this deregulation is likely to have a disproportionately negative impact of problem gambling in Northern Ireland which suffers from the highest level of internet poverty in the UK. Evidence shows that problem gambling impacts the less well-off and since 14% of households in Northern Ireland have never had access to broadband and 22% of homes with children have no internet access,¹⁴ it means that those who do gamble in Northern Ireland are likely to make use of betting shops, making an extra day's access to betting shops problematic, especially if there is less regulation of betting shops compared to the rest of the UK.
 - d. It is the view of CARE that the passing laws to extend opening hours should only be introduced once a Regulator is in place; a strategy has been set to deal with gambling related harm and a levy has been introduced to ensure funding is in place to help alleviate the problem. In the absence of these provisions, it is premature to extend opening hours, this should be considered as part of legislation proposed in the next mandate.
9. **Amendments:** Jim Allister MLA has indicated his intention to oppose clause 2 and clause 6. **CARE NI supports this proposition and would urge MLAs to remove the provisions until a Regulator is put in place and a strategy to address gambling harm has been introduced.**

Industry Levy

10. **Clause 14** – introduces a regulatory power to bring in a statutory levy. The levy is broadly similar to that introduced in GB through the Gambling Act 2005¹⁵ While a levy is to be welcomed, the proposal in the Bill lacks ambition. The GB levy, which is mirrored by the Bill, has been ineffective in raising the money required to ensure gambling harms are addressed, since it has never been brought into force and relies on voluntary contributions.
- a. In 2018, the voluntary levy in GB raised less than £10 million a year missing the target of 0.1% of gross gambling yield.¹⁶ This has been increased to £100 million, over the period 2019-2023, by the large betting companies on a voluntary basis.¹⁷ In GB the voluntary levy has been set at 0.1%. On a voluntary basis the large betting companies have raised their contribution to 1%.¹⁸
 - b. 1% equates to a voluntary contribution of £100 million. While this amount is a considerable sum of money, it does not scratch the surface of what is needed. At the House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry Committee, Dr Anna Van Der Gaag, Chair of the Advisory Board for Safer Gambling (ABSG) pointed out that the cost of treatment for problem gambling in the UK stood at £591 per person per year (that is a need of £200 million for GB).¹⁹ Given the Department's own figures estimate that 2.6% of the NI population needs help (that is c.40,000) that would mean £23 million would be required for Northern Ireland alone each year, which is almost ¼ of the new GB voluntary levy.

¹⁴ [Internet users, UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/people-in-the-uk/internet-users/uk)

¹⁵ [Northern Ireland: faring badly | Poverty and Social Exclusion](https://www.legislation.gov.uk/ukpga/2005/19/section/123)
<https://www.legislation.gov.uk/ukpga/2005/19/section/123>

¹⁶ See 'How much should I donate to GambleAware', <https://www.begambleaware.org/donation-guidelines-202122-faqs>

¹⁷ Cols 1071 and 1073, <https://hansard.parliament.uk/Commons/2019-07-02>

¹⁸ [UK operators confirm plans to increase voluntary RG levy - iGaming Business](https://www.begambleaware.org/donation-guidelines-202122-faqs)

¹⁹ Q31, Evidence to the Select Committee on the Social and Economic Impact of the Gambling Industry, Corrected oral evidence: The Social and Economic Impact of the Gambling Industry, 23 July 2019

- c. The House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, the Westminster All Party Parliamentary Group on Gambling-related Harm, the Social Market Foundation, the Gambling Commission and the Advisory Board for Safer Gambling **have all recommended that the GB levy should become mandatory.**²⁰ It is clear that a mandatory levy is needed for the whole of the UK and Ireland.
- d. Due to the high incidence of gambling-related harm, money for research, education and treatment on gambling harms is needed more urgently in Northern Ireland than anywhere else in the UK. At Committee stage of the Bill, the Turf Guardians Association gave evidence that they their members had paid £300,000 over 10 years to a charity that helped with gambling harm.²¹ It is clear the sums given by the gambling sector in Northern Ireland is derisory. Clause 14 of the Bill will do little to help. More robust action is needed. We note that officials said in September this Bill is only the start of getting a levy in place as the mechanics are yet to be worked out, that a levy will need Treasury approval and that in the meantime, it "*gives the industry an opportunity to get its house in order and work together to perhaps come up with a more substantial voluntary contribution to that in the South.*"²²
- e. Any levy proposed in the Bill will not apply to online gambling. Online gambling operators who advertise in Northern Ireland are required to have a licence under the Gambling Commission and make voluntary contributions to cover research education, treatment related to gambling harms. However, none of the GB funds from these licences appear to come to Northern Ireland. The Minister should urgently work with the UK Government and the Gambling Commission to ensure a portion of the money paid to the GB levy covering online gambling is paid to Northern Ireland.
11. **Amendment 2** in the name of members of the SDLP reads:
- Clause 14, Page 6 Leave out from line 9 to line 15 on page 7 and insert- '172A.It shall be a condition of all relevant licences, certificate or permits that the holder of a relevant licence, certificate or permit must make an annual financial contribution of 1% of their annual gross gambling yield to one or more organisations approved by the Department, which between them deliver or support research into the prevention and treatment of gambling-related harm, harm prevention approaches and treatment for those harmed by gambling'.*
12. This amendment seeks to ensure that a meaningful statutory levy is put in place with a statutory level fixed on the face of the Bill. **Crucially amendment 2 ensures that all current Northern Ireland licence holders must pay the levy immediately.** This amendment ensures that funding is paid directly to organisations and healthcare provision that deals with gambling related harm.
13. Amendment 2 is in line with the call of several academics and experts on gambling related harm, published in the British Medical Journal.²³ The proposal called for a statutory levy and that the gambling industry be excluded from consultation on where the money should be spent. Amendment 2 also focuses on research, which experts deem essential to preventing gambling harms. The amendment clearly meets the robust academic test set out in the BMJ.
14. In response to the Committee deliberations, the Minister has proposed **amendment 3** which extends who the Department must consult about the levy from just those with an interest in the

²⁰ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry: *Gambling Harm - Time for Action*, July 2020, para 557, <https://publications.parliament.uk/pa/ld5801/ldselect/ldgamb/79/79.pdf>
 Gambling-related Harm All Party Parliamentary Group, *Online Gambling Harm Inquiry*, June 2020, page 5, <http://www.grh-appg.com/wp-content/uploads/2020/06/Online-report-Final-June16-2020.pdf>
 Social Market Foundation, *Gambling Review and Reform, Towards a New Regulatory Framework*, August 2020, page 55, <https://www.smf.co.uk/wp-content/uploads/2020/08/Gambling-review-and-reform-August-2020.pdf>
 Gambling Commission, *Strategy 2018-2021*, page 12, <http://www.gamblingcommission.gov.uk/PDF/Strategy-2018-2021.pdf>
 Advisory Board for Safer Gambling Progress Report on the National Strategy to Reduce Gambling Harms, June 2020, page 1, <http://www.rgsb.org.uk/PDF/Progress-Report-on-the-National-Strategy-to-Reduce-Gambling-Harms.pdf>

²¹ [committee-20463.pdf](https://www.niassembly.gov.uk/committees/20463.pdf) (niassembly.gov.uk) page 2

²² [Evidence to the Committee for Communities](https://www.niassembly.gov.uk/evidence-to-the-committee-for-communities), 9 September 2021, pages 4, 6, 7, 8, 9

²³ [Open letter from UK based academic scientists to the secretaries of state for digital, culture, media and sport and for health and social care regarding the need for independent funding for the prevention and treatment of gambling harms](https://www.bmj.com/content/363/n10147/e007147) | The BMJ, July 2020

gambling industry to those who have suffered from, or been affected by, addiction to gambling or other forms of harm or exploitation associated with gambling; and people who have experience or knowledge of issues relating to such addiction, harm or exploitation. While this increased scope is welcome, it does not address the urgency of bringing in a levy as soon as possible at a rate that will make a difference in Northern Ireland. **CARE NI urge MLAs to support the more robust proposals put forward in Amendment 2.**

15. If the levy is to be introduced, consultation with persons affected by gambling related harm and those who have knowledge of the effects of gambling related harm is essential and welcome. If amendment 2, aimed at making the levy more meaningful is rejected, then amendment 3 in the name of the Minister should be supported. However, we are concerned with the Minister's proposal to consult with the industry. **It is clear from the research in the BMJ, that the industry should not be consulted as this can lead to greater harm if they frame the agenda.**
16. It should be noted this amendment while requiring consultation would not lead to a gambling harm reduction strategy. It is disappointing that any such strategy has been omitted from the Bill and that the cross-party amendment proposing a strategy was not selected.

Code of Practice

23. **Clause 15** introduces the power to issue one or more Codes of Practice in the legislation, which CARE NI welcomes. The draft code of practice was published by the Department during Committee stage.²⁴ CARE looks forward to responding to the consultation on the draft code, however, it is striking that the code is significantly less detailed than the extensive Code of Practice already in place for GB.²⁵
24. While the legislation makes clear that a breach of the code is admissible in court, the provisions stop short of placing any sanction on a licence holder for the breach of the code. The Bill as currently drafted, means that a breach of the code would have ramifications for a person wishing to renew their licence or the code could be relied upon in civil proceedings as evidence, were the breach of the code gave rise to civil liability, such as negligence or breach of contract. It would be preferable if meaningful sanction for a breach of the code was included in the Bill.
25. **Amendment 4** in the name of DUP MLAs reads:
Clause 15, Page 7, Line 25 Leave out 'for the purposes of' and insert 'to meet an expected duty of care to those using the facilities to include, but not be limited to'
26. This amendment seeks to create a statutory duty of care that is owed by licence holders to those who use their services. Those who operate any gambling service owe general a duty of care to people who pay for their service. This amendment goes further and ensures that the code creates a statutory duty of care. The draft code of practice presented to the Committee uses the words 'duty of care'²⁶ but this word is interchangeable with 'customer care' and is less robust than statutory provision.
27. The duty of care would be more than the general duty to look out for customers or to ensure that there is compliance with the law. If amendment 4 was passed, the Department would be under a duty to set out how a gambling company is legally responsible for gambling harm caused and for not taking steps to prevent that harm. A duty of care creates a legal obligation to act in the best interests of customers. The draft code of practice provided at Committee stage by the Department, reads more like a best practice manual than any legal obligations. If a statutory duty of care is put in place, a breach of the code of practice in how licence holders deal with their customers will create

²⁴ [departmental-letter-re-consultation-on-draft-codes-of-practice-for-gambling-operators--clause-15.pdf \(niassembly.gov.uk\)](#)

²⁵ <https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp/print>

²⁶ *Op Cit*. See footnote 29 page 22

a legal obligation that can be relied upon in court and the code could be relied upon in a civil claim for damages, if the code was breached and a person suffered harm.

28. **CARE NI urges MLAs to support Amendment 4** which ensures that the code of practice creates a meaningful legal duty on licence holders to act in their customers best interests.
29. **Amendment 5** states:
Clause 15, Page 8, Line 22 At end insert - '(10A) Serious, significant, continuing or multiple breaches of a code is a ground of revocation or cancellation of a licence registration or permit under articles 27, 42, 92, 103 or, 121.'
30. The code of practice is not legally enforceable. It would be preferable for a new criminal offence to enacted dealing with breaches of the code or at the minimum, making the code enforceable in court is essential. The Bill fails to create a meaningful sanction for breach of the code.
31. While breaches of the code are admissible in the determination of a licence renewal, **amendment 5** seeks to give the power of a court to revoke or cancel a licence or a permit issued under the 1985 Order for significant, continuing or multiple breaches of the code. This would allow a person to apply to the court under schedule 7 of the 1985 Order to have a licence or permit revoked. The amendment would hold the licence/permit holder to account during the period their license or permit is valid.
32. CARE NI urges MLAs **to support amendment 5** to provides a sanction for breaching the code.

Ban on credit cards

33. **Amendment 6** in the name of several DUP MLAs states:

New Clause

After clause 15 insert - 'Ban on credit cards 15A. In paragraph 2 of Article 2 of the 1985 Order at the end of the definition of "money", after "order", insert "but not a credit card".'

34. A ban on gambling with credit cards was brought into effect in GB in April 2020.²⁷ This applies to online and in-person betting. The ban prevents problem gamblers from using credit cards to fund their gambling and to evade affordability checks and has proved popular with consumers.²⁸
35. Given it is a condition of obtaining a licence through the Gambling Commission in GB, most companies have instituted a UK-wide policy on credit cards, so there is de-facto rather than a legal prohibition on credit card use in NI. While it is currently unlikely, in theory, credit cards could be used online, as we are relying upon the Gambling Commission to ensure that credit card use is banned for the whole of the UK. However, local licence holders that operate only in Northern Ireland can still accept credit cards for in-person betting. This legal anomaly should be tidied up and the precedent set for wider reforms in regulating online gambling.
36. The draft code of practice recommends a ban on the use of credit cards. Amendment 6 will simply make the ban statutory (in line with the rest of the UK). This is clearly an uncontentious amendment as representatives of the gambling industry gave evidence at Committee stage stating they do not accept credit cards on a voluntary basis.²⁹
37. CARE NI recommends that MLAs support **amendment 6** as it places voluntary action on a statutory footing.

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²⁷ <https://www.gamblingcommission.gov.uk/news/article/gambling-on-credit-cards-to-be-banned-from-april-2020>

²⁸ <https://www.gamblingcommission.gov.uk/news/article/gambling-commission-publishes-interim-evaluation-on-the-successful> Published 2 November 2021

²⁹ See page 2 [committee-20463.pdf](https://www.niassembly.gov.uk/committees/committees-20463.pdf) ([niassembly.gov.uk](https://www.niassembly.gov.uk))