

Gaming Machines Amendment (Gambling Harm Minimisation) Bill 2020

NCOSS Submission

11th December 2020

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About NCOSS

The NSW Council of Social Service (NCOSS) works with and for people experiencing poverty and disadvantage to see a positive change in our communities.

When rates of poverty and inequality are low, everyone in NSW benefits. With 80 years of knowledge and experience informing our vision, NCOSS is uniquely placed to bring together civil society to work with government and business to ensure communities in NSW are strong for everyone.

As the peak body for health and community services in NSW we support the sector to deliver innovative services that grow and evolve as needs and circumstances evolve.

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Executive Summary

NCOSS welcomes the reforms outlined in the Gaming Machines (Gambling Harm Minimisation) Bill 2020 (the Bill)¹ as a step in the right direction towards a gambling harm minimisation framework that better aligns with community expectation. In preparing this submission the views of NCOSS members, including gambling counsellors and domestic and family violence organisations, were sought on the potential of the proposed reforms to improve protections for individuals, families, and communities.

NSW has the highest number of Electronic Gaming Machines (EGMs) in Australia and 30 percent of the world's EGMs outside of casinos.² In 2019, EGMs accrued a profit of approximately \$18 million a day in NSW.³ Gambling-related debt problems cause significant harm to individuals and the community. Problematic gambling behaviour is linked to an increased likelihood of adverse family impacts, mental health issues, substance use, and risk of suicide.⁴ In 2010 the Productivity Commission Inquiry into Gambling found that the social cost of gambling to the Australian community was \$4.7 to \$8.7 billion a year, with EGMs responsible for the majority of this cost.⁵

Vulnerable and disadvantaged communities are disproportionately impacted by gambling harm. In NSW the highest numbers of EGMs and those that generate the most profits are located in disadvantaged communities. Data from the Independent Liquor and Gaming Authority (ILGA) shows that 3 percent of Local Government Areas (LGAs) accounted for 25 percent of all EGM profits.⁶ Fairfield, for example, ranks low in the ABS Socio-Economic Indexes for Areas and brings in the highest revenue of all LGAs from 3,354 club-based EGMs.⁷ In 2019-20, EGMs raised approximately \$1.4 billion in tax revenue in NSW and are forecast to bring in \$1.9 billion during the 2020-21 budget cycle.⁸ A key objective of the *Gaming Machines Act 2001* (NSW) (the Act) is to minimise the harm associated with the misuse and abuse of gambling activities and to foster responsible conduct concerning

¹ Gaming Machines Amendment (Gambling Harm Minimisation) Bill 2020 (hereafter referred to as 'the Gambling Harm Minimisation Bill').

² NSW has a total of 93,618 EGM, adapted from the Queensland Government Statistician's Office, 2018, Australian gambling statistics, 35th Edition, *Queensland Government*, available at <https://www.qgso.qld.gov.au/statistics/theme/society/gambling/australian-gambling-statistics#current-release-australian-gambling-statistics>

³ Liquor and Gaming Authority ('hereafter referred to as ILGA'), 2020, *Gaming Machine Data- Latest Reports- December 2019-June 2020*, available at <https://www.liquorandgaming.nsw.gov.au/resources/gaming-machine-data>

⁴ Swanton, T. B., & Gainsbury, S. M. (In press). Gambling-related consumer credit use and debt problems: A brief review. *Current Opinion in Behavioural Sciences*. <https://doi.org/10.1016/j.cobeha.2019.09.002>

⁵ Productivity Commission 2010, *Gambling*, Report no. 50, Canberra, pp. 6.36.

⁶ ILGA, *Gaming Machine Data*, viewed November 2019 (2018a; 2019b) <https://www.liquorandgaming.nsw.gov.au/resources/gaming-machine-data>

⁷ Australian Bureau of Statistics (2016).

⁸ NSW Government (2020) *Budget Statement 2020-2021* (Budget Paper No. 1) pp. 4 - 13.

gambling.⁹ The known harm caused by EGMs to the community demands a proportionate regulatory system that holds businesses that profit from EGMs accountable for the harm caused.

Under the current legislation the approach to regulation of venues with EGMS, usually clubs and hotels, (Clubs and hotels) has been self-regulation. The Bill proposes changes to this regime including: stronger protections for individuals with problem gambling and their families; new requirements for venues to assist them to reduce gambling related harm; as well as sanctions and penalties for venues that do not comply with requirements.

The Bill introduces a number of practical measures to improve the self-exclusion system, including sanctions for venues that fail to comply, and the creation of a single State-wide Register. These reforms will make self-exclusion more accessible for patrons, as well as making it easier for venue staff to check identification against a single State-wide Exclusion Register. A significant aspect of the reforms is the introduction of family-led exclusion orders that will create a pathway for families to seek exclusion for loved ones in crisis.

In addition to the Bill's practical measures, the term 'problem gambler' has been removed from the legislation. This is a symbolic shift in gambling discourse and NSW Government policy which has traditionally focused blame on the individual rather than acknowledging the broader structural issues at play with EGMs. While welcomed, the proposed reforms are a modest step towards a genuine culture of responsible gambling in NSW.

⁹ *Gaming Machines Act 2001* (NSW) s 3.

Recommendations

Our submission makes twelve recommendations to build on the proposed reforms to strengthen the regulatory system, improve transparency and enhance protections for patrons of EGM venues and their families.

An Improved Self-Exclusion Scheme

Recommendation One: Section 42F of the Bill should be amended to include a requirement to check identification against the State-wide Exclusion Register before patrons are allowed to enter the venue in the definition of 'all reasonable steps'.

Recommendation Two: A subsection to section 42K of the Bill should be included to the effect that a venue must not receive a benefit from an excluded person playing an EGM as a result of a venue's non-compliance with section 42F - 'to take all reasonable steps to prevent an excluded person from entering or remaining in the relevant excluded area.' Any losses should be reimbursed to the excluded person.

Recommendation Three: All venue staff should be required to undertake the Responsible Conduct of Gambling training annually. A higher duties allowance for gambling contact officers should be mandated.

Recommendation Four: Where a person self-excludes using the Online Portal without the assistance of a gambling counsellor, the system should trigger a "warm referral" so that a qualified gambling counsellor contacts the person within 7 days to offer counselling.

Recommendation Five: The definition of 'gambling service provider' should include 'an accredited gambling counsellor.' A proscribed gambling counsellor should not be limited to those that are funded by the Responsible Gambling Fund (RGF).

Recommendation Six: To improve the operability of the new exclusion system, any person entering a venue should undergo a mandatory identification check which is linked to the State-wide Exclusion Register and the proposed cashless card system.

Recommendation Seven: Gambling counsellors and people with lived experience should be consulted to determine whether recording breaches or attempted breaches on the State-wide Exclusion Register will have unintended consequences.

Recommendation Eight: Stronger privacy provisions should be developed to protect data and identification of excluded persons and family members in the gambling incident register and the State-wide Exclusion Register.

Family-led and Venue Exclusions

Recommendation Nine: Comprehensive consultation with domestic and family violence organisations should be undertaken before finalising the family-led exclusion process to ensure that safety risks are able to be identified and managed. The exclusion system must be integrated with the domestic violence service system.

Recommendation Ten: Reference to gambling contact officer and venues should be deleted from section 40F-40G of the Bill. Family-led exclusions should be handled by independent adjudicators, not venues, or gambling contact officers.

Privacy

Recommendation Eleven: Privacy provisions should be strengthened by increasing penalties and making it an offence to monetise in any way the data held on the State-wide Register.

Cashless Gambling Card

Recommendation Twelve: Consideration should be given to the introduction of a cashless card system to enhance the gambling harm minimisation framework, designed in partnership with gambling counsellors and people with lived experience. It should be developed, implemented, regulated and managed independently of venues.

An Improved Self-Exclusion Scheme

The current regulatory regime requires every venue to offer its patrons access to a self-exclusion scheme. While the Gaming Machines Regulations 2010 (NSW) (the Regulations) mandates minimum requirements, self-exclusion schemes are largely designed and implemented by the venues.¹⁰ The current self-exclusion scheme has been heavily criticised by gambling counsellors and other community services as ineffective. The schemes ineffectiveness could be attributed to inconsistencies in how the scheme operates across venues, and a lack of compliance with self-exclusion orders because of insufficient oversight. The current self-exclusion scheme also fails to recognise the barriers that people with problematic gambling behaviour face in accessing the scheme. The gambling harm minimisation reforms address these issues to some degree and should improve compliance and accessibility.

Increased penalties for venues for non-compliance

Under the current regulatory regime, venues are under no legal obligation to enforce self-exclusion orders. The 2019 NSW Gambling Survey found that 22 percent of self-excluders attempted to enter the venue that they self-excluded from and 92 percent were successful.¹¹ This is consistent with reports from gambling counsellors in NSW that have clients who have self-excluded from venues and are frequently able to breach the self-exclusion order and enter the nominated EGM area. The failure of the self-exclusion system often results in significant harm to the self-excluder who are left with no legal remedy.

Gambling Counsellor in Bathurst-Lithgow

We have many instances in Bathurst and Lithgow where clients report that they have been able to access EGMs, even though they had a self-exclusion in place.

I had a client just this week. Bob has Schizophrenia and has self-excluded from all Bathurst venues. He was feeling low on money and at lunchtime, he was able to enter [the local pub] at noon without anyone stopping him. He gambled \$50, lost \$30, and thankfully walked out before losing the final \$20. He was in a very low state mentally, and now has no money for food.

This story is repeated ad infinitum in Bathurst and Lithgow.

¹⁰ Gaming Machines Regulations 2010 (NSW) s 53.

¹¹ Office of Responsible Gambling, 2019, *NSW Gambling Survey 2019*, available at <https://www.responsiblegambling.nsw.gov.au/research2/nsw-gambling-survey-2019>

Leon's Story

Leon had a self-exclusion order in place and had been seeing a gambling counsellor. Leon went to his local club and requested that his self-exclusion order be revoked. Leon spoke to the club manager and told him that he no longer had a problem with gambling. Without contacting Leon's gambling counsellor or the manager of the Multi Venue Self Exclusion program operated by ClubsNSW, the club manager agreed to revoke the order and drafted a letter for Leon to sign stating that he wished to have the Self-Exclusion Deed removed effective immediately.

Leon signed the letter and was allowed to enter the EGM area. Over the following months, Leon believes he lost approximately \$80,000 through the EGMs at that venue.

Leon's gambling counsellor checked ClubSafe system and saw that Leon was still registered as self-excluded from that club. The correct revocation process was not adhered to as per section 6.2 of the Deed. If the club followed the correct revocation process it is unlikely the self-exclusion order would have been revoked.

Leon's gambling counsellor wrote an official letter of complaint to ClubsNSW and the Office of Liquor and Gaming. The Office of Liquor and Gaming spoke to the club in question, but no penalty could be issued.

Imposing legal obligations on venues and penalties for failing to comply with self-exclusion requirements are supported. The Bill places a legal obligation on venues to 'take all reasonable steps to prevent an excluded person from entering or remaining in the relevant exclusion area of the venue'.¹² If a venue fails to comply with this requirement they can be fined up to 250 penalty units.¹³ In light of the substantial number of self-excluders able to enter gambling premises, imposing financial penalties on venues will strengthen compliance and give people who have identified that they have a problem with gambling a stronger chance in overcoming their addiction.

The Bill does not define 'all reasonable steps', rather the Bill defers the power to define 'all reasonable steps' to the Secretary.¹⁴ Without knowing the details of what 'all reasonable steps' will entail, it is difficult to comment on how effective this new accountability provision will be in practice. It is strongly recommended that the Secretary consult on the draft guidelines, especially on the definition of 'all reasonable steps'. At a minimum, it is recommended that 'all reasonable steps' include a requirement to check identification against the State-wide

Recommendation: Section 42F definition of 'all reasonable steps' include at a minimum the requirement to check identification against the State-wide Exclusion Register before patrons are allowed to enter the venue.

¹² Gambling Harm Minimisation Bill s 42F (1).

¹³ Gambling Harm Minimisation Bill s 42B.

¹⁴ Gambling Harm Minimisation Bill s 42 (1).

Exclusion Register when signing into the club. Checking identification will also assist in the prevention of underage gambling.

The Bill's proposal to increase existing penalties for venues who fail to comply with the following offences is supported:

- failing to observe the required gaming machine shut down period;
- publishing gaming machine advertising (some exceptions apply);
- failing to provide player activity statements to patrons if the venue has a player reward scheme;
- breaching privacy restrictions on disclosing information within player activity statements and player accounts; and
- using or installing cash dispensing facilities (e.g. ATM, EFTPOS terminal) that can provide cash from a credit card account.

Disincentives to Breach Self-Exclusion Order

The proposed reforms require venues to suspend an excluded person's player account and membership of any player reward scheme and refund any money in their player account.¹⁵ The reforms further remove the 'win' incentive by requiring an excluded person or a minor to forfeit any gains made while using EGMs during the self-exclusion period. The venue is responsible for confiscating and transferring any winnings to the Responsible Gambling fund (RGF). If the venue fails to deposit the winnings into the RGF within 3 months, penalties apply.¹⁶ In the absence of these provisions, clubs will continue to have incentives to take the risk of letting in those who have self-excluded. This initiative and the new penalties to strengthen compliance is welcomed.

The proposed disincentives to discourage excluders from breaching their self-exclusion order is supported. The extension of this provision to minors is also sensible and closes a loophole in the current harm minimisation framework. It is however recommended that this disincentive also applies to venues by ensuring venues do not receive a benefit as a direct result of failing to comply with section 42F – to take 'all reasonable steps' to prevent an excluded person from entering the venue. It is recommended that section 42K is amended to the effect that a venue must reimburse an excluded person any losses.

Recommendation: Insert a subsection to section 42K to the effect that a venue must not receive a benefit from an excluded person playing an EGM as a result of a venues non-compliance with section 42F - 'to take all reasonable steps to prevent an excluded person from entering or remaining in the relevant excluded area.' Any losses should be reimbursed to the excluded person.

¹⁵ Gambling Harm Minimisation Bill s 42I-K.

¹⁶ Gambling Harm Minimisation Bill s 42K (4).

Proactive Intervention: Gambling Contact Officers

The current NSW gambling harm minimisation framework is based on an 'informed choice' model that aims to reduce the harm caused by gambling through the provision of information to consumers. The informed choice model is based on the assumption that 'problem gambling results, in part, from erroneous perceptions about the probability of winning' and that the provision of comprehensive information can change gambling behaviour.¹ This model constructs the individual as the problem – the 'problem gambler' – rather than acknowledging the biology underlying problematic gambling behaviour¹⁷ and the structural environment where EGMs have been allowed to flourish.¹⁸

The proposed reforms move away from the informed choice model towards a proactive intervention approach. This is largely reflected by the change in the role of the venue - from offering passive support to proactively identifying people who display problematic gambling behaviour.

A principal feature of the current harm minimisation framework in NSW is the Responsible Conduct of Gambling (RCG) training requirements. All gaming-related venue staff, hotel licensees, and club secretaries' are required to complete RCG training through an approved training provider. Gaming-related venue staff are required to complete an online refresher course every 5 years. The current model requires venue staff to provide referrals to counselling services and access to the self-exclusion scheme on request by the patron.

The Bill introduces a requirement that all venues with EGMs must have at least one person on duty at all times that has completed the advanced training course, authorising them as a gambling contact officer. Failure to ensure there is a qualified gambling contact officer carries 250 penalty units.¹⁹ The gaming contact officer is required to assess the gambling behaviour of patrons, engage with patrons that display problematic gambling behaviour, offer referrals to gambling counselling services and consider whether the venue should make an exclusion order.²⁰

The gambling contact officer will be required to have conversations with patrons that are highly sensitive and confronting which could result in irritability or anger. It is recommended that the Regulations mandate a higher duties allowance for gambling contact officers.

¹⁷Ferris Jabr, 'How the Brain Gets Addicted to Gambling' (November 2013) *Scientific American*. Available at: <https://www.scientificamerican.com/article/how-the-brain-gets-addicted-to-gambling/>

¹⁸ EGMs are designed to sustain player engagement and are considered addictive by design. The venue environment where EGMs are situated is designed to encourage addiction – offering privacy, minimal staff interaction, and an atmosphere of safety and comfort. See, Bestman, A, Thomas, SL, Randle, M, Pitt, H & Daube, M, 2018, 'Attitudes Towards Community Gambling Venues and Support for Regulatory Reform: An Online Panel Study of Residents in New South Wales,' *Harm Reduction Journal*, vol. 15, no. 1, pp. 1.

¹⁹ Gambling Harm Minimisation Bill s 48C (5).

²⁰ Gambling Harm Minimisation Bill s 50A.

Increasing training standards of venue staff will lead to an improved venue culture where responsible gambling is understood and taken seriously. It is recommended that all gaming-related staff are required to undergo the RCG training annually.

Increasing the capability of venue staff to identify and work with patrons who gamble is not a substitute for access to professional counselling. A client of a counselling agency participating in the Productivity Commission Inquiry into Gambling said '*I would like counsellors to be more available when I felt I needed help (at the club). I would have sought help sooner*'.²¹ Consideration should be given to making gambling counsellors more available to patrons onsite at the venue.

Recommendations:

All venue staff should be required to undertake the Responsible Conduct of Gambling training annually; and,

A higher duties allowance for gambling contact officers should be mandated.

Online-Exclusion Portal

The current self-exclusion scheme requires venues to design and manage their own self-exclusion system, provided it meets the minimum requirements set out in the Regulation. For example, Clubs NSW has designed their own Multi-Venue Self-Exclusion scheme (MVSE) called ClubSafe. ClubSafe is an online platform where patrons can self-exclude online, provided that the venue they seek to exclude from is a participating venue.

The Bill introduces an Online-Exclusion Portal, a web-based tool that will allow all EGM users in NSW to self-exclude from one or more venues independently, or with the assistance of a counsellor. A person subject to any exclusion order is prohibited from entering venues within a 5km radius of the nominated venue. The Bill also introduces a State-wide Exclusion Register which will enable all exclusions to be registered in the same place – whether made through the new Online Exclusion Portal, in person, or existing MVSE like ClubSafe.

Making an Online Exclusion Portal available to all EGM users in NSW will likely increase the usage of the scheme because it removes barriers to access. Venues have an inherent conflict of interest; the more people use EGMs the more money venues make. Anecdotal evidence from NCOSS members tells us that venues do not want people to self-exclude and venue staff may even question the patron's decision to do so. There are also significant barriers for people who have problematic gambling behaviour to approach venue staff to seek a self-exclusion order. Admitting to having problematic gambling behaviour can be very difficult, especially when discussing with a stranger who is not a qualified counselling professional. Patrons can potentially feel judged, misunderstood, intimidated, and humiliated.

²¹ Productivity Commission, above n 5, pp. 7.21.

The creation of the Online-Exclusion Portal is supported because it removes the requirement for people that have problematic gambling behaviour to seek help from venue staff. It is also positive to see self-exclusion orders will automatically apply to venues within a 5km radius of the nominated venue. However, this provision should not limit the self-exclusion area to a 5km radius if the excluder wants the order to apply to every venue in NSW.

The Bill retains the requirement for venues to refer a self-excluded patron to a proscribed gambling counsellor. However, it introduces an 'opt-out' arrangement where the venue arranges an automated referral. This is positive reform and is preferred to mandatory counselling. Removing barriers to accessing counselling services is essential, however mandatory counselling will likely be ineffective if the person has yet to acknowledge they have a problem. It is recommended that when a person who self-excludes using the Online Portal, without the assistance of a gambling counsellor, receives an automated "warm referral" so that a qualified gambling counsellor can contact the person within 7 days to offer counselling.

It is uncertain why the Bill retains the Act's definition of a 'proscribed gambling counsellor', which includes Australian Hotels Association (AHA) and Clubs NSW counsellors, and not qualified gambling counsellors more generally. A person should be able to seek gambling counselling from any properly qualified counsellor regardless of whether the counsellor's funding source is the RGF.

Recommendation: Where a person self-excludes using the Online Portal without the assistance of a gambling counsellor, the system should trigger a "warm referral" so that a qualified gambling counsellor contacts the person within 7 days to offer counselling.

Recommendation: Amend the definition of 'gambling service provider' to include 'an accredited gambling counsellor.' A proscribed gambling counsellor should not be limited to those that are funded by the Responsible Gambling Fund ('RGF').

State-wide Exclusion Register

The creation of a State-wide Exclusion Register will ensure venues have up-to-date information on excluded persons, removing any barrier for venues to meet their obligation to prevent an excluded person from entering the venue.

To improve the operability of the self-exclusion scheme, it is recommended that identification checks of people entering venues should be made mandatory and linked to the State-wide Exclusion Register.

The Bill requires the venue to record any breach or an attempted breach in the State-wide Exclusion Register. If a client admits to a breach with their counsellor, the counsellor can notify the venue and enter the breach into the Register. Similarly, if an excluded person attempts to breach their exclusion order, and if the venue is aware that the excluded person has a counsellor, the venue must notify the counsellor of the breach.

Further consultation with gambling counsellors and people with lived experience is needed to determine whether recording breaches or attempted breaches on the Register will have unintended consequences. A gambling counsellor in Bathurst told us that recording a breach could have a negative impact on the individual:

[R]ecording the breach on a State-wide Register could have unintended consequences, people that gamble to the point of being "Addicted" generally have underlying issues that include low self-esteem, the reporting could exacerbate this. The perceived punishment could also result in Anger and Blame, these are manifestations of Denial. In my experience, the addict's brain is constantly on the lookout for a reason/excuse to use i.e. gamble. And this is not a conscious activity taking place.

I also don't think it would have any significant impact other than to possibly reinforce a negative belief system. –gambling counsellor

Other feedback on the State-wide Exclusion Register was positive, with one gambling counsellor supporting the proposal to record breaches and attempted breaches on the Register because he believed his clients would take self-exclusion orders more seriously and it would also alert venues of particular self-excluders.

The Bill further prescribes that every venue must maintain a gambling incident register to record incidents where a patron displays or engages in problematic gambling behaviour. Venues are required to record in the gambling incident register 'any incident in which a patron of the venue displays or engages in problematic gambling behaviour of the kind specified in guidelines issued by the Secretary.'²² While supportive of creating a register similar to alcohol incident registers, the requirement to register observations of patrons without necessarily requiring venue staff to intervene should be reviewed and reconsidered.

The Bill prohibits the recording of personal details of family members who make an exclusion on the gambling incident register. However, there is no reference to any privacy provisions. It is strongly recommended that privacy provisions apply to the gambling incident register.

Recommendation: Stronger privacy provisions are required to protect data and identification of excluded persons and family members in the gambling incident register and the State-wide Exclusion Register.

Family-led and Venue Exclusions

The Bill provides an avenue for venues to exclude a person experiencing gambling harm on their own violation, or on application by a family member. Under this proposed system, if a family member applies to the venue for an exclusion order, the venue is required to keep the family member's identity and personal details confidential. Venues are required to refer the family member to a counselling service to discuss their concerns before

²² Gambling Harm Minimisation Bill s 48A (2).

applying. The family member may then lodge directly to the venue or request the gambling counsellor lodge the application on their behalf.

Family-led exclusions raise the risk of family and domestic violence, demanding strong privacy protections and safeguards to ensure any family-led applications are confidential.

It is strongly recommended that careful and comprehensive consultation with domestic and family violence organisations is undertaken before finalising the family-led exclusion process. It is essential that if involuntary exclusion orders are introduced, they need to be integrated with the domestic violence service system, principally Safer Pathway, to reduce and manage risk to domestic and family violence victim-survivors.

The risk of violence is not only present for family's who have applied for exclusion, the reforms also heighten the risk to staff.

Imagine the patron who has been attending the same club for years, and then has the embarrassment of being told (not always discreetly), that they are now excluded. The shame that they already may be feeling would only be exacerbated, and venue staff may find themselves being abused. – gambling counsellor

In addition to further consultation with domestic and family violence organisations, it is recommended that people with lived experience and gambling counsellors are consulted to gain a deeper understanding of how these reforms will address problematic gambling behaviour.

Over my time as a Gambling Help Counsellor I have found that clients who are "forced" to attend counselling under threat or "encouragement" by a family member do not tend to engage well, if at all. The first step in addiction recovery is admitting that there is a problem, and if the client hasn't yet come to that conclusion any counselling completed will not be of much benefit. – gambling counsellor

After a family member lodges an application for exclusion, the Bill requires the gambling contact officer to assess the application and then to engage with the relevant person, including providing information on counselling services and allowing them to self-exclude. If this engagement is unsuccessful the gambling contact officer must make a recommendation to the licensee on whether the person is at risk of harm to themselves or a family member because of the gambling, and whether or not they should be excluded. If the gambling contact officer recommends an exclusion order, the relevant person can make representations to the venue.²³

The licensee has 21 days to decide on the application for exclusion. If a person is aggrieved by the decision to exclude or not exclude, a person may apply to have the decision reviewed by ILGA.²⁴

This model raises significant concerns around the involvement and control that venues have in the operation of family-led exclusions. Family-led exclusions increase the risk of triggering domestic and family violence and the applications need to be managed with the utmost care. It is recommended that independent adjudicators with

²³ Gambling Harm Minimisation Bill s 40F.

²⁴ Gambling Harm Minimisation Bill s 42C (3).

gambling counselling experience are employed by ILGA, funded by the RGF, to hear exclusion applications initiated by family members. The data available on the gambling incident register and the State-wide Exclusion Register should be made available to the adjudicator to assist in their decision.

Where the independent adjudicator upholds the application, the person in question should be notified and offered counselling before the exclusion is enforced. It should then be the responsibility of the adjudicator to place the excluded person on the State-wide Exclusion Register.

Recommendation: A comprehensive consultation with domestic and family violence organisations is needed before finalising the family-led exclusion process. The exclusion system must be integrated with the domestic violence service system.

Recommendation: Delete reference to gambling contact officer and venues from section 40F-40G of the Bill. Family-led exclusions should be handled by independent adjudicators with gambling counselling experience, not venues or gambling contact officers.

Privacy

A State-wide database carries a certain level of risk to the privacy of the excluded person and their family member. The Bill contains privacy provisions that make it an offence to disclose the identity or personal details of excluded persons on the State-wide Register. Only authorised persons are allowed to access the Register, which includes 'a responsible person for a hotel or club, a personal gambling counsellor, and Public Service employees engaged in the administration of the gaming and liquor legislation within the meaning of the *Gaming and Liquor Administration Act*.'²⁵ It is recommended that the privacy provisions are strengthened by increasing the number of penalty units for privacy breaches and introduce a provision that makes it an offence to monetize, in any way, the data held on the State-wide Register.

Recommendation: Strengthen the privacy provisions by increasing penalties and making it an offence to monetize in any way from the data held on the State-wide Register.

Cashless Gambling System

The new exclusion system proposed in the Bill could be strengthened by introducing a mandatory cashless gambling card to operate across all EGMs in NSW. A cashless card system would enhance the self-exclusion scheme by enabling patrons to limit the amount they can gamble throughout a set period by creating a "pre-

²⁵ Gaming Machine Amendment (Gambling Harm Minimisation) Regulation 2020 s 40K (2).

commitment" feature. Enabling a pre-commitment function gives patrons more control and helps them to make a clear and well-informed decision. Nova Scotia has a cashless gambling card system that enables users to choose the level of financial pre-commitment and the period the limit should remain.²⁶

A cashless gambling card also offers a more anonymous self-exclusion process which is likely to have higher uptake. According to one gambling counsellor, a cashless gambling card:

Will take away impulse gambling, which is a real problem, especially with those who are trying to recover. By having to top up or apply for a card the person with the problem may have enough time to put other strategies in place. Often a trigger to gamble is having cash, for example, on payday, so having to top up a card may help to mitigate this.

This system will help us as counsellors with those clients who want to manage their gambling without stopping completely. We will be able to use the card as a strategic tool for managing how much is gambled. – gambling counsellor

If a cashless card system is adopted it must be designed to reduce gambling harm, not to make it easier to gamble. The cashless card should not be linked to credit cards, should not have automatic top-ups, and should not be anonymous. It is strongly recommended that the cashless card system, along with the broader exclusion system, is regulated by an independent body with experience in gambling counselling and not self-regulated by venues who have a conflict of interest.

Gambling counsellors have advised that some clubs already use a cashless gambling card, linked to their MVSE and that this system is not working:

The link to the card and the MVSE system is outstanding. This system is next to useless in many venues, and I have clients report to me every week that they have been able to continue to visit their favourite venue without ever being asked to leave. The bigger clubs seem to do better but are not anywhere near perfect. – gambling counsellor

The cashless gambling card system would facilitate compliance with the gambling harm minimisation framework, making it easier for venues to monitor the underage use of EGMs by requiring age verification on the issuance of the cashless card.

²⁶ Parke, J, Rigby, J and Parke, 'A Cashless and card-based technologies in gambling: A review of the literature', University of Salford Manchester (2008) pp. 7.4. Available at: http://usir.salford.ac.uk/id/eprint/18206/1/Review_Cashless_Card_Technology_Gambling_Parke_2

Integration of the cashless gambling card system with the proposed State-wide Exclusion Register would enable cards to be frozen as soon as a person is entered onto the State-wide Exclusion Register. This offers another safeguard if the excluded person breaches their exclusion order and is not detected by the venue.

Recommendation: Introduce a cashless gambling card system to enhance the gambling harm minimisation framework. The cashless card system should be designed in partnership with gambling counsellors and people with lived experience. It should be designed, regulated, and managed independently of venues.

We would very much welcome the opportunity to discuss this submission with you in greater depth. Should you have any questions about this matter, please do not hesitate to contact me or Deputy CEO, Anna Bacik (02) 8960 7916 or via email at anna@ncoss.org.au

Yours sincerely

A handwritten signature in cursive script that reads "Joanna Quilty".

Joanna Quilty
Chief Executive Officer