

Regulatory Impact Statement: Interim assessment for Reducing Pokies Harm

Purpose of Document	
Decision sought:	Release of a public discussion document seeking views on how to strengthen harm minimisation regulations for Class 4 gambling venues. (in effect, an 'in-principle' decision to consult on strengthening the regulations, without knowing exactly how).
Advising agencies:	Department of Internal Affairs
Proposing Ministers:	Minister of Internal Affairs
Date finalised:	8 December 2021
Problem Definition	
<p>Class 4 gambling (known as pokies, refers to electronic gaming machines in pubs, clubs and TABs) has a higher risk of harm than other forms of gambling. The current regulations around harm minimisation have not been substantively reviewed since their inception in 2004 and are limited in terms of today's known best practice harm minimisation measures – which means that people could be experiencing preventable harm. The risk of harm may not be appropriately or optimally mitigated by operators and their venues. While machine numbers are declining, they remain the most common type of gambling harm for clients accessing intervention services.</p>	
Executive Summary	
<p>The level of harm associated with playing pokies is increasing and will continue to do so without Government intervention. This gambling harm has a negative effect on individuals and their whānau, friends and the wider community. This harm is also disproportionately affecting Māori, Pacific peoples and other population groups.</p> <p>The Gambling (Harm Prevention and Minimisation) Regulations 2004 are limited in scope and prescription and have not changed significantly since they were established in 2004. The requirements in the Regulations do not correspond with the level of risk and the harm being caused. Advocates in the harm prevention and minimisation sector, as well as local authorities, have been asking for stronger measures for some time. A recent District Court decision has also identified that more prescriptive requirements might result in more effective enforcement.</p> <p>The regulation-making powers in the Gambling Act 2003 are substantial, but the content of the current Regulations is limited. There is a significant opportunity to create a stronger harm minimisation approach by strengthening the current harm minimisation requirements. This could create a tangible reduction in level and impact of pokies harm on individuals and their communities.</p> <p>The discussion document sets out key information on:</p> <ul style="list-style-type: none"> • the pokies sector; • the current harm minimisation requirements and issues; and • the gambling harm being experienced due to pokies. <p>The document presents some high-level options for the public to comment on and asks a number of questions about the issues, the potential impact (including on different population groups), and whether the proposals will be effective. It also seeks suggestions for any other solutions. This will inform the development of a formal set of regulatory proposals. An engagement plan is being designed to explicitly encourage input from the general public as well as the disproportionately affected population groups.</p> <p>The objectives of this project are expected to be relatively uncontroversial, as we expect that most parties would agree that reducing harm from pokies is a good objective. It is expected that key stakeholders, including pokie operators, venues, and gambling harm treatment services, will have different views on the optimal approach.</p>	

Limitations and Constraints on Analysis

The Minister asked that the scope of the discussion document be restricted to options to reduce harm associated with Class 4 gambling venues and machines ('gaming venues pokies'), using the regulation-making powers that already exist in the Gambling Act 2003 (the Act). Primary legislative change and regulation addressing any wider system issues (operating environment and inequity around community funding) are out of scope. In defining the scope as 'options to reduce harm in pokies venues using regulatory powers', the:

- *problem definition* has been restricted to pokies harm in pubs, clubs and TABs, and
- *options* have been restricted to what is achievable using existing regulation making powers.

One of the key constraints is the limited information available on the efficacy and cost of the various proposals. The decision to progress with a high-level discussion document should support us to receive a wide range of information and feedback to inform the development of a formal set of regulatory proposals. Data and information is specifically needed on the:

- impact of many of the harm minimisation measures in the discussion document; and
- the level and type of operational implications for organisations directly impacted.

The key assumptions and uncertainties underpinning the impact analysis are that:

- regulatory change will only be progressed where it is the most effective response, but at this early stage there is some uncertainty about which harm minimisation measures are best provided for in operational rules rather than regulations,
- we are seeking input on the practicality and acceptability of measures, as the private nature of the activity and links to comorbidities means that the data and evidence is inevitably limited, and
- we are taking an open approach, by setting out a relatively wide range of potential measures for information and feedback rather than offering pre-evaluated measures for comment.

We do not think these limitations and constraints will impact on Ministers' confidence in the approach taken in the draft discussion document and their decision to release it.

Responsible Manager(s) (completed by relevant manager)



Michael Woodside, Policy Director, Policy Group, Regulation and Policy,
Department of Internal Affairs

8 December 2021

Quality Assurance (completed by QA panel)

Reviewing Agency: Department of Internal Affairs

Panel Assessment & Comment:

The panel considers that the information and analysis summarised in the RIA partially meets the quality assurance criteria. The interim RIS does a reasonable job of identifying the gaps in data, evidence and information to support decisions about whether changes to the regulations are needed and, if so, what changes to the regulations may have the largest positive and least adverse impacts. It will be important to obtain good information through the consultation process to help to fill these gaps, including about costs and benefits and the implementation of the proposed regulatory changes. A good consultation process should help to fill gaps in the analysis of costs and benefits, both quantifiable and non-quantifiable, so that the final RIS can provide the necessary information to support decision-making. It is also important for the final RIS to assess the interaction between regulatory changes, operational improvements and the role of the regulator in effective enforcement.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the Counterfactual expected to develop?

Context

A quick overview

1. Class 4 gambling ('pokies') means electronic gaming machines (EGMs) in pubs, clubs and TABs (but not casinos, which are regulated by another part of the Act) around New Zealand. Pokies are a form of continuous gambling, where money can immediately be reinvested to more gambling.
2. Pokies are operated by 'corporate societies' who must be licensed, operate in a not-for-profit manner and return gaming machine proceeds to authorised purposes' (via community grants, internal club funding or TAB racing industry funding). The key differences between pubs and clubs are that:
 - non-club societies (e.g. NZ Community Trust) can have multiple venues (but a venue licence must be acquired for each venue); while
 - club societies (e.g. the RSA) have their own premises as a venue (the exception is TAB, which is a club but has many venues across NZ).
3. All societies and venues have obligations under the Gambling Act 2003 (the Act) and the Gambling (Harm Prevention and Minimisation) Regulations 2004 (see next section). This includes ensuring all EGMs meet the national standards and include any specified features.

The Department of Internal Affairs regulates pokies

4. There are a number of legislative measures already in place that are intended to prevent and minimise harm from pokies. The Appendix provides an overview (colour coded) of Class 4 Venue Requirements of the Act and the Harm Minimisation Regulations.
5. The Department of Internal Affairs (the Department) is responsible for regulating the Class 4 gambling sector in New Zealand. As the regulator, this includes the licensing function, encouraging best practice and minimising harm caused by gambling. The current key focus of the regulator is improving harm minimisation interventions and outcomes by increased monitoring and enforcement of harm requirements.
6. The regulator continually enhances operational processes to improve the transparency and accountability of Class 4 operators and improve their understanding of the scale and nature of non-compliance with existing rules.

Expenditure on pokies

7. Expenditure on pokies increases annually from a low of \$806 million in 2013/14, to a high of \$924 million in 2018/19. For 2019/20, total expenditure fell to \$802 million, which can be primarily attributed to the significant loss of gaming machine profits (GMP) due to the COVID-19 alert level restrictions. Despite this decrease, recorded GMP expenditure for 2020/21 was \$987 million, the highest since records began in 2007.
8. Most of the money spent on gambling in New Zealand comes from the relatively limited number of people¹ who play pokies and/or casino gaming machines. Most people accessing gambling-harm intervention services cite pub or club pokies as the primary problem gambling mode.

Harm from gambling is wider ranging and has impacts beyond the gambler

9. The Act defines a *problem gambler* as a person whose gambling causes harm or may cause harm. Harmful gambling is now our preferred term, as it removes the onus on the individual.
10. The Act defines *harm* as harm or distress of any kind, caused or exacerbated by a person's gambling and includes personal, social or economic harm suffered by any person or society.
11. Individual harm from gambling is wide-ranging and can include:

¹ That is, 10.9% of New Zealand adults, according to the 2020 HLS (9.6% from pokies alone).

- damage to relationships, including neglect of dependents;
 - emotional and psychological distress;
 - disruptions to work or study;
 - financial distress and loss of income;
 - fraud and related crimes; and
 - family violence.
12. Second-hand harm from gambling is where the harm does not just affect the gambler, but also affects their whānau, friends, and the wider community. Other impacts include:
- the direct impacts can include neglect of dependents, financial and emotional distress;
 - there is also a strong correlation between gambling and family, whānau or partner violence for women and children; and
 - harm caused by gambling may also have broader economic effects, such as for employers and businesses due to lack of productivity or fraud.

Sector composition

13. As of 30 June 2021, the Class 4 gambling sector currently comprises:
- 218 corporate societies (184 'clubs' and 34 'non-club'); with
 - 1,059 'venues' operating a combined total of 14,704 machines.
14. Societies operate pokie machines out of clubs and pubs and must distribute their net proceeds to community recipients. Examples include Pub Charity and the Lion Foundation. Their peak body is the Gaming Machine Association of New Zealand (GMANZ), though not all societies are members of GMANZ.
15. Clubs are organisations such as RSAs, working men's clubs and cosmopolitan clubs. They run pokie machines within the clubs, and the net proceeds are usually returned to their own operations. The Department requires there to be rules about membership, election of officers, and purposes and operations of the club. Their peak body is Clubs New Zealand.
16. Some systemic aspects may impact on harm minimisation, namely:
- operators are intended to be 'not-for-profit' with a strong local community focus and yet most operate their machines in a competitive commercial environment with all the attendant commercial imperatives and consequences (e.g. societies compete for good venues); and
 - tension between generating gambling revenue and harm minimisation measures (i.e. reduced gambling due to increased harm minimisation means less harm but results in less funding).

Agencies and services involved in gambling harm prevention and reduction

17. The Ministry of Health develops and administers the three-yearly strategy to prevent and minimise gambling harm. This includes funding gambling harm prevention and minimisation services (including gambling treatment providers), setting the problem gambling levy and research and evaluation.
18. Te Hiringa Hauora/Health Promotion Agency (funded by the Ministry of Health) provides information and education services that aims to support New Zealand communities to prevent and respond to harmful gambling.
19. A range of gambling harm service providers, such as PGF Services, Salvation Army Oasis and Asian Family Services provide intervention and/or public health services (contracted by the Ministry of Health). They offer a range of intervention services from helpline and information services through to full treatment services. Some providers are universal, and others focus on population groups such as Māori, Pacific, and Asian gamblers and their family and friends.

The current state

Pokies contribute to a concerning level of harm

20. There is already a concerning level of harm associated with pokies - while the number of EGMs has been steadily reducing over time but the amount being spent by New Zealanders is

increasing over time, and pokies remain the most common type of gambling harm for clients accessing intervention services.²

21. This level of harm will continue to increase if left unchecked. The HLS 2020 indicates that one in five pokie players are considered at-risk gamblers (this is an increase from the HLS 2018 which indicated 'one in six'). This suggests that some people are experiencing a level of harm that has worsened over time.

Regulatory requirements to prevent and minimise harm are relatively limited

22. The current regulations cover a limited number of topics, with a low level of prescription. They:
- do not specify procedures for harm minimisation policies, such as how and when venue staff should check on players;
 - have few restrictions on the game features known to attract players and encourage continuous play; and
 - have no associated infringement offences.
23. For example, some of the key inadequacies identified in the current regulations include:
- staff who work at pubs and clubs lack the tools to identify problem gambling and intervene effectively;
 - the criteria for interventions by venue staff are either not prescribed, or not clearly prescribed in the society policy or venue statement; and
 - harm minimisation regulations assign some responsibilities only to venue managers – meaning societies are not accountable.
24. There are no offences and infringement fees for the requirements in the current Regulations. The only options to address non-compliance are prosecution, or suspension/cancellation of a licence (which is often suspended, as societies appeal to the Gambling Commission). This means that a significant level of resources is required to act on a breach, and small breaches that do not justify this action in and of themselves are not formally recorded against a society or venue, so they do not receive any penalty.
25. The current settings provide minimal guidance on the practical aspects of harm minimisation that we know are important (e.g. what signs of harm must be recorded which could help identify someone as a harmful gambler or supporting measures like penalties) and have no associated offences and penalties for lower level intervention.

There have been developments in harm minimisation practices and processes since the regulations were created in 2004

26. There has been a significant amount of recent research on the best modes of recognising, recording and intervening in harmful gambling. Current advice on best practice recommends:
- more prescriptive tools could be developed to enable venue staff to identify and then know what to do when a patron's gambling becomes harmful;
 - more concentrated training, for all staff who supervise pokies; and
 - more consistent and detailed guidance on the signs of harmful gambling.
27. Technology is continuing to increase the machines' addictive power. Game features have evolved significantly since the Act and the Regulations were introduced. There are features within games that are specifically designed to keep people paying continuously. There have been no corresponding regulatory changes to prevent or restrict these features.
28. Adverse aspects of jackpots are being increasingly observed. There are reports of gaming machines becoming highly sought after in venues where a jackpot level appears close to being won. It is common for gaming venues to see marked increases in the number of people gambling, the amounts being gambled each play, and to the speed at which people play. There have been instances of stand over tactics and violence to force users to abandon a machine, and of groups taking charge of all machines in a venue to ensure they share in a jackpot win.

² As at 30 June 2021, there were 1,059 venues operating 14,704 machines. This shows a trend for venues and machines decreasing, as venues peaked at more than 2,200 in the late 1990s and machines peaked at 25,221 in June 2003. Despite the decline in venues and machines, total spend continues to increase.

What is the policy problem or opportunity?

29. New Zealanders are spending almost a billion dollars every year at the pokies and the level of harm associated with playing pokies is increasing - and will continue to do so without Government intervention. This gambling harm has a negative effect on individuals, their whānau, friends and the wider community. This harm is also disproportionately affecting Māori, Pacific peoples and other population groups.
30. The key reasons for harm are the time spent gambling and the money lost. These affect people differently. In 2020, about 4.5% of New Zealand adults self-reported some harm from their own gambling in the previous year. Gambling harm is widely believed to be underreported, in part due to the perceived stigma.
31. In addition, we know that people who have a problem with gambling on pokies are not usually identified in pubs and clubs. According to the Health and Lifestyles Survey 2020, over 60% of pokies reported that they had not any interaction with staff about their gambling. Interactions included: know my name or recognise me; monitor the pokie room; spoken to me with a concern about my gambling; given me a leaflet on gambling support services.
32. The current regulations do not ensure adequate use of some of the key levers for reducing pokies harm – controls in the gambling venue, restrictions on machine features, and enforcement tools to drive compliance. The research and practice advice, such as the guidance issued by Te Hiringa Hauora have evolved since the Regulations were created in 2004 – and difference approaches are recommended as best practice in terms of venue management and game features.
33. Some people are experiencing, or at risk of, a level of harm that could have been prevented or minimised.
34. A recent District Court decision has also identified that more prescriptive requirements are needed. A Christchurch patron with an addiction to pokies, spent around \$500,000 of earthquake insurance money on pokies over three years, before passing away suddenly. The manager of one of the venues he frequented was prosecuted for not identifying his problem. In a 299-day period, he'd spent over \$75,000 there. On one single visit, he made 17 EFTPOS withdrawals totalling \$2,700. Towards the end, he was there every second day. The venue missed all the signs of his addiction.
35. The decision [*Department of Internal Affairs v Suppressed [expended] NZDC 11625*] has shown, the need to set more prescriptive requirements for identifying gambling harm in venues. To summarise:
 - the venue manager was charged with failing to take reasonable steps to ensure that the venue's harm minimisation policy was used to identify a problem gambler,
 - the reasonable steps included having systems to track multiple cash withdrawals and regular long play durations,
 - the Judge held that as these steps were not included in the harm minimisation policy, they were not self-evident requirements, and
 - the decision noted that these steps could be prescribed by regulations and that venue staff and gamblers would benefit from this.
36. The current 'light touch' regulation model, where societies and venues have been expected to develop and apply strong harm minimisation measures, has not been successful. A more prescriptive approach to harm minimisation could reduce the harm New Zealanders experience from gambling on pokies. Advocates in the harm prevention and minimisation sector, as well as local authorities, have been asking for stronger measures for some time.
37. Preventing and minimising harm is one of the purposes of the Act - and the sole purpose of the Regulations. The Act contemplates a substantially higher level of regulation in relation to Class 4 gambling than is currently used. Detailed regulation-making powers are provided for:
 - harm prevention and minimisation (section 313);
 - gaming machines (section 314);
 - admission to, and exclusion from, gambling venues (section 315);
 - exclusion of problem gamblers (section 316); and
 - infringement offences for the breach of any regulations (section 360).

38. The range of regulation-making powers provide an opportunity to create a stronger harm minimisation approach. Government intervention, by way of strengthening harm minimisation requirements, which could reduce the harm on individuals and their communities. In line with the scope, we could:
- set more explicit direction for venues and societies;
 - providing more player information on pokie games and make features less addictive; and
 - providing supporting offences and penalties for the regulations.

What objectives are sought in relation to the policy problem?

39. The core objective is to reduce the level of individual (and, by extension, second-hand) gambling harm being experienced from pokies in venues. Our more specific objectives, in line with the Minister's scope decisions, are to:
- make it easier for venues and societies to reduce harm;
 - make pokie machines safer; and
 - creates consequences for breaches of the regulations.
40. The secondary objective, for the next stage of work post-consultation, will be to ensure any proposed regulations are cost effective and not overburdening for the organisations impacted by them (societies, venues and the Regulator).

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the Counterfactual?

42. We developed a set of criteria to select proposals for inclusion in the discussion document. The interim criteria are:
- that some evidence (international or local) exists of their ability to reduce harm; or
 - they represent a best practice (international or local) response to reducing gambling harm; or
 - they are recommended by the regulator, or harm minimisation providers;
- and**
- they are not evidently impractical or unfeasible; and
 - we have an ability to make the requirement via regulation.
43. All proposals in the discussion document meet the above interim criteria. However, in the discussion document, the initial thinking for each of the three sets of proposals have been annotated with our initial perceptions of:
- the overall effectiveness in decreasing harmful gambling;
 - the feasibility and practicality of the proposals;
 - an indication of the financial costs; and
 - any initial assumptions and uncertainties with the proposals.
44. The final RIS criteria (for the next stage of decision making - for reporting back to Cabinet with developed options for policy approval) will likely include:
- effectiveness – whether the intervention is likely to be effective at reducing harm;
 - efficiency – resourcing implications;
 - feasibility - including:
 - a. ease and ability to change;
 - b. fiscal cost to the regulator and the sector
 - viability of using operational settings, rather than regulations
 - social acceptability (i.e. to the general public).

What scope will options be considered within?

45. In defining the scope as 'options to reduce harm in pokies venues using regulatory powers':
- *the problem definition has been restricted* to pokies harm in pubs and clubs; and
 - *the available options have been restricted* to existing regulation making powers, limited to:
 - harm prevention and minimisation (section 313);
 - gaming machines (section 314);
 - admission to, and exclusion from, gambling venues (section 315);
 - exclusion of problem gamblers (section 316); and
 - infringement offences for the breach of any regulations (section 360).
46. Within the scope, and to meet the specific objectives of the work, proposals can be considered within the three focus areas summarised below:
- the venue - society and venue manager requirements;
 - the machines - game features and jackpot branding; and
 - enforcement tools - offences and infringement fees for breaches of the current regulations.

What options are being considered?

The Counterfactual

47. The current legislative environment presents the circumstances summarised below. Operational changes to support better harm minimisation practices are also being considered, but the work is still in the scoping and development stage (will commence after the discussion document consultation process).

Societies and venues:	<ul style="list-style-type: none"> • Problem gamblers are not always identified or approached by venue staff, as they often have to make their own judgements about: <ul style="list-style-type: none"> • how long is too long to be sitting uninterrupted at a pokie machine • how many ATM or EFTPOS withdrawals a patron can safely make • how they keep track of patrons’ ATM withdrawals at a venue • the intensity of the gambler’s pokie use • what behaviour or events to note in the venue’s records • when to involve a manager at the venue • how to intervene, such as the type of questions to ask a person about their gambling. • Venues can provide ATMs on site, just not in the gaming room. • Previously excluded gamblers can re-enter once their stipulated time expires, regardless of whether they have sought help. • Gambling rooms are normally private, with dim lighting and comfortable seating (the ideal environment for gamblers to get in “the gaming zone” and continue to play). • Gamblers can play without considering how much they want to spend. • Training is varied as societies can devise the problem gambling training themselves, if they meet minimum content requirements. • Only one person is required to be trained, but the responsibilities for supervising the gaming room are often shared by many staff.
Machines and Jackpots:	<ul style="list-style-type: none"> • Much of the harm-focused ‘player information’ is only displayed if the player elects to see it. • EGMs display a loss as a win. • Many features included in the EGM games are known to cause harmful gambling or gambling addiction (e.g. free-spins, multi-bets). • The current play-interruption feature, after 30 minutes, still allows the player to continue. • Jackpots can be advertised within the venue. • Jackpots are creating some adverse and aggressive behaviours. • Jackpots are a significant drawcard, as the prize is twice the amount that can be won from an EGM game. But there is no relationship between the EGM being played and the jackpot.
Enforcement:	<ul style="list-style-type: none"> • There are no offences and infringement fees that relate to the requirements in the current harm minimisation regulations.

We have options to strengthen regulatory requirements

48. One harm minimisation intervention is not enough to reduce harm, a combination of measures is needed across complementary areas.
49. A suite of proposals, spanning three focus areas (venue, machines and enforcement tools) has been created. The key information being sought through the discussion document is:
- the potential impacts of the proposals, or any alternatives offered, on reducing an individual’s harm from pokies whilst they are in a venue;

- the nature of any impacts on different population groups; and
- the level and type of operational implications for societies and venues.

50. We are particularly interested in feedback and information on:

- what proposals are most important or effective;
- any alternative or operational solutions;
- potential implementation issues;
- unintended consequences; and
- acceptability to the industry and to gamblers.

Part A – The Venue

51. Part A considers ways to strengthen harm minimisation practices by being more explicit about required procedures, actions and environments.
52. The proposals selected for Part A of the discussion document may help improve identification of harmful gambling, through: increased monitoring of the gaming room, record-keeping of a specified range of signs of potential harm, and standardised content for training of staff.
53. The proposals are largely based on research and best practice guidelines and so directly target some of the known issues in identifying and approaching at-risk or problem gamblers.

Options	Description and discussion
1. Regular sweeps of gambling room	Venues could be required to monitor the gambling area at set intervals (regular sweeps) to ensure patrons are not displaying signs of gambling harm. This would also enable staff to notice and record the duration of gamblers play, supporting option 3 below. Feedback on how often these sweeps should be will be useful.
2. Approach person who exceeds a specified period of gambling	Venue staff could be required to talk to a person who has been gambling for a specified period (e.g. two hours). Feedback on the frequency and type of interaction prescribed will be useful.
3. Recording specified events and signs	Class 4 venues could be required to record a specified range of harm-related events and signs. This would work well in conjunction with option 1, regular sweeps of the gaming room.
4. Records required for use of Management Service Providers (MSPs)	Societies could be required to keep records on their use of contracting MSPs to deliver services to venues on behalf of the society. It is common for societies to use a MSP to discharge a range of the society's obligations, including services related to harm minimisation, particularly harm minimisation training for venue staff and compliance checks of venue performance, including venue harm minimisation performance. Societies' record keeping of their use of MSPs could provide for a more consistent oversight of harm minimisation activities.
5. No ATMs inside premises with a gambling venue	There could be no access to ATMs from inside a venue, only from outside.
6. Requirements for excluded gamblers to complete before they can return to a venue	Excluded gamblers could be required to seek help before they can return to a venue.
7. Venue design requirements	Venue design could be considered in how gambling harm could be prevented or minimised. This relates to changes to reduce the opaque nature of the gambling room and its 'cosiness', to reduce factors that support being 'in the zone'. For example, requirements could cover the level of light required in the room, the maximum sound level for the machines, having 'stand at' machines instead of seated, etc.

8. Mandatory pre-commitment on machines	All gamblers could be required to pre-commit to the amount of money or time they intend to spend prior to gambling.
9. Standardised content for harmful gambling awareness training	Standardised content for harmful gambling awareness training could be established.
10. All staff supervising gambling must be trained	All staff who have a role in supervising the gambling room could be required to be trained.

54. Some of our initial thinking on the Part A proposals, below, has been provided in the discussion document for validation or feedback:

- The options directly target some of the key known issues in identifying and approaching at-risk or problem gamblers.
- Split duties of staff in venues (i.e. monitoring gaming machines and selling and serving food and alcohol) and high turnover of staff working in hospitality industry may have an impact on implementation.
- Some monetary cost to Class 4 sector to implement (i.e. training and ongoing time requirements for observing and recording).
- Some operational updating of systems and practices required by the regulator to determine new internal regulatory criteria, communication to sector and business implementation.
- What happens at one venue may only be part of a person's overall gambling activity.
- Greater prescription in identifying harmful gambling behaviour and consistent/improved record keeping, should largely look the same across all venues.
- Gambling host responsibility should more closely resemble alcohol host responsibility.
- Proposals still rely heavily on human intervention, so some variation possible in implementation.

Part B – Game features

55. Part B considers how gambling harm can be reduced at its source, by reducing harm associated with the gaming machine experience.
56. The proposals selected for Part B of the discussion document may help improve at-risk users' ability to control their gambling, reduce spending and time spent gambling.
57. The proposals are based on (a) information to address the fallacy of having any 'control' in the game, and (b) removing some of the key 'reinforcing' features that keep people gambling.

Options	Description and discussion
11. Pokies machines could be required to display more information (such as: return to player; volatility of games; harm minimisation messages).	<p>RTP (return to player) ratio of games</p> <p>The ratio refers to the level of loss a player should expect on average when playing a particular game. Most games in NZ are set at the higher end of the 78% to 92% requirements (e.g. near 92%, or \$0.08 lost for a single game bet of \$1).</p> <p>Providing information on this aspect of the game is not likely to assist players when choosing between different games or machines. However, being informed (and reminded) of the level of loss they should expect when they gamble on a machine could assist with better decision-making, for those that struggle to control their gambling.</p> <p>Volatility of games</p> <p>The likelihood of winning as well as the likely size of wins. A highly volatile game gives a low chance of winning, but wins are likely to be large. A low volatility game gives a high chance of winning, but wins are likely to be low.</p>

	<p>Being informed about volatility of games may help at-risk players make decisions, especially those who are chasing losses, and assessing the likelihood of regaining those losses.</p> <p>Harm minimisation messaging</p> <p>Currently gaming machines are required to periodically provide information about how much money has been gambled and how much has been lost. This provides potentially useful information to the person using the machine, but also a break. Stronger messaging suggesting a break (or even offering to stop the game for a period) could be used. Messaging could also be made more prominent.</p>
12. Display losses as losses	<p>Stop partial losses being presented as wins. That is, a user might gamble \$2.50 on a single game and have a return of \$0.50 – but this will usually be presented as a \$0.50 win, even though the user has lost \$2.</p> <p>Providing information about the amount that was lost, instead of presenting the amount of the user’s own money they didn’t lose on a gamble as a win, could help at-risk users understand and better assess their chances of winning or losing.</p>
13. Prevent the ability to make multi-row bets	<p>Multiple lines operate together to disguise losses as wins. Preventing multi-row bets could reduce harm by not disguising losses and might make EGMs less attractive and reduce the speed at which money is spent.</p>
14. Reduce maximum stake of \$2.50	<p>The current maximum stake of \$2.50 is relatively low compared to some other jurisdictions but consideration could be given to reducing the maximum stake – for instance \$2, \$1.50, or \$1. This would likely reduce the level of harmful gambling but could impact on people who currently gamble without harm, making gaming machines gambling less attractive for that group.</p>
15. Prevent or limit the number of “free spins”	<p>Research shows that gamblers prefer to play EGMs with free spins. Free spins have been associated with loss of control over time and money spent gambling. Free spins have also been explicitly linked to the notion of getting ‘value for money’ which was attractive both to social and problem gamblers. Preventing or limiting free spins may reduce the attractiveness of the EGM to problem gamblers, as well as others.</p>
16. Maximum number of games in an hour	<p>Pokies machines have a maximum number of games that could be played in an hour. This could lead players to take a break from playing.</p>
17. More information and restrictions on jackpots	<p>Pokie machines could be required to provide information about how much of any stake is being used for jackpots. Maximum jackpot size could be reduced. Signage showing jackpot levels could be prohibited.</p>

58. Some of our initial thinking on the Part B proposals, below, has been provided in the discussion document for validation or feedback:

- These options could lead to reductions in time/money spent gambling and/or breaks in play, so gamblers get out of the ‘gambling zone’.
- Some changes could take longer to implement depending on the complexity (e.g. whether both current and new machines must comply with the new regulations, or just new machines).
- Any software changes would need to consider and be consistent with international gaming machine standards.
- Cost is dependent on specific changes. Changes to machine features will incur software costs – which will vary depending on the option and rollout requirements.
- Pokie machines are becoming increasingly addictive due to technological developments and game features will become ever more sophisticated.

- Changes to game features will have an impact on reducing gambling harm, but the size of the impact is uncertain.
- Some people engage with technical information such as odds / volatility more than others.

Part C - Enforcement

59. Part C considers how society and venue compliance with gambling harm rules can be increased through lower-level enforcement.
60. The proposals selected for Part C of the discussion document are about providing the regulator with instant enforcement tools. This should help to ensure rules are better adhered to by societies and venues.

Options	Description and discussion
18. Create offences and infringement fees for <u>existing requirements</u> in the regulations	<p>Infringements are a low-cost, simple way of punishing minor offending without, in most cases, recourse to the courts. Several of the current regulations have a significant impact on harm minimisation, but do not have an infringement fee attached to them.</p> <ul style="list-style-type: none"> • Offence for <u>societies/venue operators/venue managers</u> of “<i>failing to meet requirements in regard to restrictions on jackpot advertising and/or branding at Class 4 venues</i>” (an existing requirement) - with a new infringement fee of \$1,000 • Offence for <u>societies/venue operators/venue managers</u> of “<i>failing to meet requirements in regard to ... providing information about problem gambling to patrons and where to get help</i>” (an existing requirement) - with a new infringement fee of \$1,000 • Offence for <u>societies</u> of “<i>failing to meet requirements in regard to ... required components of problem gambling awareness training to staff who supervise gambling</i>” (an existing requirement) - with a new infringement fee of \$1,000
19. Create offences and infringement fees for proposed <u>new requirements</u>	<p>Infringements are a low-cost, simple way of punishing minor offending without, in most cases, recourse to the courts. Any new proposed regulations should also have an infringement fee attached to them.</p> <ul style="list-style-type: none"> • New offence for <u>venue operators/venue managers</u> of “<i>failing to meet requirements in regard to monitoring and recording harm minimisation actions</i>” (a <u>proposed new requirement</u>) - with an infringement fee of \$1,000 • Offence for <u>venue operators/venue managers</u> of “<i>failing to meet requirements in regard to harm minimisation machine features</i>” (a <u>proposed new requirement</u>) - with an infringement fee of \$1,000

61. Some of our initial thinking on the Part C proposals, below, has been provided in the discussion document for validation or feedback:
- These options could help drive culture change in harm minimisation in pokies venues by making the consequences of breaches clear and incentivising compliance.
 - Penalties will provide a wider range of tools in the regulator’s toolbox.
 - For some venues, the infringement fees may be too low to provide an effective deterrent, but for others, they may be extremely effective.

How do the options compare to the Counterfactual?

62. As we have not yet developed set of final proposals (and as this is an Interim RIS to support the decision to release a discussion document), we have only been able to summarise how the current proposals compare to the Counterfactual. The RIS which will accompany the final proposals will include a more detailed analysis, using the criteria identified in paragraph 39.

63. Parts are summarised separately, but it is expected that as a combined suite of changes they would be 'much better' than the Counterfactual.

Option	Overall assessment
Counterfactual	Limited cover in regulations in terms of topics and specificity. Difficult to enforce compliance in venues.
Part A - The Venue	++ Better than Counterfactual: Clearer, more specific steps. Monitoring systems required. Improved and/or wider training. Venue design counteracts harm.
Part B - The machines	++ Better than Counterfactual: Information addresses gambling fallacies. Harm driving features reduced. Removal or restriction of Jackpots or branding.
Part C - Enforcement	+ Better than Counterfactual: Improvement in compliance by creating enforcement tools.
Example key for qualitative judgements:	
<ul style="list-style-type: none"> ++ much better than doing nothing/the status quo/counterfactual + better than doing nothing/the status quo/counterfactual 0 about the same as doing nothing/the status quo/counterfactual - worse than doing nothing/the status quo/counterfactual -- much worse than doing nothing/the status quo/counterfactual 	

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

64. At this stage the Department does not have any preference. Although we have done some preliminary thinking (see next section), we have not yet determined which proposals will best address the problem, meet the objectives and deliver the highest benefits
65. At this stage, we need stakeholder input to determine their workability and potential impact in the New Zealand context, and cannot identify what the benefits and costs are for each option. We are also unable to identify any potential unintended consequences. The potential benefits go well beyond savings in expenditure on harm prevention, minimisation and treatment, given that some are fundamentally not monetary in nature. It may also be that the type of changes being tested may increase help-seeking and uptake of clinical services (a positive outcome), and there may be no fiscal savings.
66. Key information being sought through the discussion document is the potential impacts of the proposals, or any alternatives offered, on reducing an individual's harm from pokies (as well as the nature of any impacts on different population groups), and level and type of operational implications for societies and venues.
67. This information will improve our understanding of the costs and benefits of these proposals or any alternatives suggested. The Department will then be able to undertake full options development and analysis - and indicate our preferred options.

What are the marginal costs and benefits of the option?

68. The tables below provide preliminary indication of the types of costs and benefits of the proposals in each of the 3 Parts.

69. Final costs and benefits will be informed by industry feedback through the discussion document. The final proposals may, depending on their impact, influence the duty and levy paid by societies.

Part A – The Venue			
1. Regular sweeps of gambling room 2. Approach person who exceeds a specified period of gambling 3. Recording specified events and signs 4. Records required for use of Management Service Providers 5. No ATMs inside premises with a gambling venue 6. Requirements for excluded gamblers to complete treatment before they can return to a venue 7. Venue design requirements 8. Standardised content for harmful gambling awareness training 9. All staff supervising gambling must be trained			
Affected groups	Comment	Impact	Evidence Certainty
Additional COSTS of the preferred option compared to taking no action			
Regulated groups (Societies, venues)	FTE impacts from increased tasks (ongoing for training and duties) [1, 2, 3, 4, 6, 8 and 9]	TBD	Medium
	Implementation costs of new policies and processes [1, 2, 3, 4, 6, 8 and 9]	TBD	Medium
	Some minor refurbishment costs [5 and 7]	TBD	Medium
	Increase in training costs [8, 9]	TBD	Medium
Regulators (DIA)	FTE impacts from increased compliance tasks (ongoing monitoring) [1 - 9]	TBD	Medium
Harm groups (MoH, HPA, service providers)	Increase in treatment placements [6]	TBD	Medium
Gamblers	-	-	-
Others	-	-	-
Total monetised costs	N/A	Unknown at present	N/A
Non-monetised costs	Gamblers: Time involved in sourcing and attending specified treatment [6]	Medium	Medium
	<i>RISK - Relies heavily on human intervention, so there may be variability in implementation.</i> [1, 2, 3, 4, 6, 8 and 9]	High/Medium/Low	Medium
Additional BENEFITS of the preferred option compared to taking no action			
Regulated groups (Societies, venues)	-	-	-
Regulators (DIA)	FTE time savings as preparing cases for prosecution is more straightforward (ongoing) [1 - 9]	TBD	Medium
Harm groups (MoH, HPA, service providers)	Decrease in harm minimisation treatment in the long term (more people seeking help, earlier, will reduce overall level and impact of harm [1 - 9])	TBD	Medium
Gamblers	Reduction in expenditure on harmful gambling, monies available for other uses [1 - 9]	TBD	Medium
Others	-	-	-

Total monetised benefits	N/A	Unknown at present	N/A
Non-monetised benefits (burden of harm / quality of life indicators)	Reduction in individuals experiencing harmful gambling.	Medium	Medium
	Reduction in second hand harm in the community.	Medium	Medium
	Clear directives will make it easier to monitor and record compliance, and so increase likelihood of successful prosecution for non-compliance	High	Medium
	Venue staff feel encouraged and empowered to intervene.	Medium	Medium
	Safer environment for people choosing to gamble	Medium	Medium

Part B – The Machine

1. Pokies machines could be required to display more information
2. Mandatory pre-commitment on machines
3. Display losses as losses
4. Prevent the ability to make multi-row bets
5. Reduce maximum stake of \$2.50
6. Prevent or limit the number of “free spins”
7. Maximum number of games in an hour
8. More information and restrictions on jackpots

Affected groups	Comment	Impact	Evidence Certainty
Additional COSTS of the preferred option compared to taking no action			
Regulated groups (Societies, venues)	Software updates for machines (phased in over time) [1, 2, 3, 4, 5, 6 and 7]	TBD	High
	FTE impacts from organising phased machine updates [1, 2, 3, 4, 5, 6 and 7]	TBD	High
	Jackpot signage changes [8]	TBD	High
Regulators (DIA)	FTE impacts from increased compliance tasks (ongoing monitoring) [1 - 8]	TBD	High
Harm groups (MoH, HPA, service providers)	-	-	-
Gamblers	-	-	-
Others	-	-	-
Total monetised costs	N/A	Unknown at present	N/A
Non-monetised costs			
Additional BENEFITS of the preferred option compared to taking no action			
Regulated groups (Societies, venues)	-	-	-
Regulators (DIA)	FTE impacts in preparing cases for prosecution (ongoing) [1 - 8]	TBD	High
Harm groups (MoH, HPA, service providers)	Decrease in harm minimisation treatment [1 - 8]	TBD	High

Gamblers	Reduction in expenditure on harmful gambling, monies available for other uses [1 - 8]	TBD	High
Others			-
Total monetised benefits	N/A	Unknown at present	N/A
Non-monetised benefits (burden of harm / quality of life indicators)	Reduction in individuals experiencing harmful gambling.	Medium	High
	Reduction in second hand harm in the community.	Low	High
	Safer environment for people choosing to gamble	Low	High

Part C – Enforcement tools

1. Create offences and infringement fees for existing requirements in the regulations (3)
2. Create offences and infringement fees for proposed new requirements (2)

Affected groups	Comment	Impact	Evidence Certainty
Additional COSTS of the preferred option compared to taking no action			
Regulated groups (Societies, venues)	Infringement fees for non-compliance [1, 2]	TBD	Low
	FTE costs in challenging infringement fees [1, 2]	TBD	Low
Regulators (DIA)	FTE impacts from increased compliance tasks (ongoing monitoring) [1, 2]	TBD	Low
Harm groups (MoH, HPA, service providers)	-	-	-
Gamblers	-	-	-
Others	-	-	-
Total monetised costs	N/A	Unknown at present	N/A
Non-monetised costs			
Additional BENEFITS of the preferred option compared to taking no action			
Regulated groups (Societies, venues)	-	-	-
Regulators (DIA)	-	-	-
Harm groups (MoH, HPA, service providers)	-	-	-
Gamblers	-	-	-
Others	Crown Account: infringement fees [1, 2]	-	Low
Total monetised benefits	N/A	Unknown at present	N/A
Non-monetised benefits (burden of harm / quality of life indicators)	Increased adherence to requirements	Low	Low

Section 3: Delivering an option

How will the new arrangements be implemented?

70. We are not proposing a final set of new arrangements yet, as this is an interim RIS to support the decision to release the discussion document. As such, it is not practicable to develop a detailed plan for implementation and any transitional arrangements.
71. However, we can say that:
- the earliest that any regulatory changes can commence would be late 2022;
 - the Department will be responsible for the introduction, ongoing operation and enforcement of the regulatory changes;
 - Class 4 operators and venues will be responsible for meeting the new obligations from a specified date(s); and
 - depending on the type and nature of regulatory changes progressed:
 - transitional arrangements may be required (e.g. if changes to gaming machines features are among the final proposals);
 - societies (either themselves or through a third party) may have to deliver new or refresher training; and
 - societies may incur costs for EGM provider software design and updates.
72. Alongside the Regulator, and as part of our implementation strategy, we would hope to have support from societies and gambling harm service providers for implementation.

How will the new arrangements be monitored, evaluated, and reviewed?

73. As with the implementation requirements, it is not practicable to develop a detailed monitoring and evaluation plan yet.
74. However, having specific requirements in place will greatly increase our ability to monitor venue compliance as, depending on the final options, there will be some 'observable' actions. The impact of any game features that reduce excessive gambling can be monitored through the electronic reporting system, which looks at items such as average and maximum spend, and average and maximum player duration. Enforcement actions can also be reported on by the Department.
75. Data collection will face some of the same issues as research in this space, in that the private nature of the activity limits both the quantitative and qualitative data available.
76. Evaluation may be based on trends in presentations at gambling harm services, whereby qualitative research would be needed to determine if a presentation is a positive or negative outcome (e.g. is someone seeking help who would not have before, or have the measures not significantly reduced harmful gambling).

Appendix: Class 4 Venue requirements of the Gambling Act 2003 and the Gambling (Harm Prevention and Minimisation) Regulations 2004

The [Gambling Act 2003](#) and the [Gambling \(Harm Prevention and Minimisation\) Regulations 2004](#) require:

1. The venue has a policy for identifying problem gamblers. The venue manager, or person acting on their behalf, must take all reasonable steps to ensure that the policy is used to identify actual or potential problem gamblers ([Section 308](#)). Failure to do so may result in a fine of up to \$5,000.
2. There is always a staff member who has received problem gambling awareness training at the venue whenever gambling is available. A trained staff member must be able to approach a player and provide appropriate information about problem gambling ([Reg 12](#)).
3. A notice is displayed in the gambling area advising customers that you have such a policy and that a copy of the policy will be made available on request ([Section 308](#)). Failure to supply a copy of this policy when requested may result in the venue manager being fined up to \$5,000.
4. Once a problem gambler has been identified, or there are reasonable grounds to believe that the person is a problem gambler, staff must approach that person and offer information or advice about problem gambling ([Section 309](#)). That information or advice must include a description of the self-exclusion procedure ([Section 309\(2\)](#)).
5. After offering the advice and information an exclusion order may be issued by the venue manager (or person acting on their behalf). This prohibits the person from entering the gambling area for a period of up to two years ([Section 309\(3\)](#)).
6. An exclusion order must be issued promptly if a person has identified themselves as being a problem gambler and has requested that the venue prohibit them from entering the gambling area ([Section 310](#)). A venue manager (or person acting on their behalf) that fails to issue a self-exclusion order when requested commits an offence and is liable for a fine of up to \$5,000.
7. Staff must take all reasonable steps (including issuing an exclusion order) to provide continued assistance on an on-going basis to a person they believe is a problem gambler after the initial approach if the person's ongoing behaviour means there are still reasonable grounds to believe the person is a problem gambler ([Section 309A](#)).
8. Excluded persons must not be permitted to enter the gambling area and must be removed if they do so ([Section 311](#)). A venue manager (or person acting on their behalf) who allows an excluded person to enter the gambling area or fails to remove an excluded person may commit an offence and is liable for a fine of up to \$5,000 ([Section 312](#)).
9. The venue manager must keep a record of exclusion orders ([Section 312A](#)), including:
 - The person's name and date of birth (if provided); and
 - Whether the person self-excluded, or received a venue-initiated exclusion; and
 - The date which the exclusion order was issued and the date of expiry; and
 - Any conditions imposed on the person's re-entry into the venue.
10. No one aged 18 or under can gamble at the venue ([Section 302](#)). Offences may result in a fine of up to \$5,000.
11. Providing credit for gambling is prohibited ([Section 15](#)).
12. No ATMs are permitted in the gambling area of a venue ([Reg 5](#)).
13. Class 4 operators must ensure that: maximum amount single play stake (for stand-alone or linked machine) does not exceed \$2.50; maximum prize single play prize does not exceed \$500, and; maximum single play jackpot prize a linked gaming machine does not exceed \$1,000 ([Reg 6](#)).
14. Gaming machines must display certain messages at the election of the player, specifically: game information (odds, average winnings, player spend rates), player information (duration, amount spent, net wins/losses). Machine must also display correct time ([Reg 7](#)).
15. Gaming machines must include feature that interrupts play every 30 minutes and provides player information (duration, amount spent, net wins/losses). Machine must include a feature that automatically pays out any winnings and credits to the player, if they do not wish to continue ([Reg 8](#)).
16. No advertising relating to a gaming machine jackpots can be published either outside the venue, or inside the venue in a way that is visible or audible to persons outside the venue ([Reg 9 and 10](#)).
17. The following must be available to players ([Reg 11](#)):
 - Pamphlets containing information about the odds of winning on gaming machines and the characteristics of problem gambling, including the recognised signs of harmful gambling and how to seek advice; and
 - Signage that is clearly visible that encourage players to gamble only at levels they can afford and contains advice about how to seek assistance for problem gambling.