## Gambling system self-assessment 2017

As part of our Regulatory Stewardship Programme, DIA has conducted a review of the gambling regulatory system. While we have taken a whole of system approach where we can, we have focused on the policy function and our Regulatory Services Group. We have identified the following priority areas for improvement:

* Develop a common understanding of the meaning of the purposes of the system;
* Develop a better understanding of changing technology and online gambling, and the implications of these for regulation
* Take a more systematic approach to environmental scanning, and reviewing our risk assessments and operating models.

The gambling regulatory system regulates gambling in New Zealand with the purpose of:

* controlling the growth of gambling;
* preventing and minimising harm from gambling;
* facilitating responsible gambling;
* limiting opportunities for crime or dishonesty associated with gambling;
* ensuring the integrity and fairness of gambling;
* ensuring money from gambling benefits the community;
* facilitating community involvement in decisions about the provision of gambling; and
* ensuring a sustainable source of community funding.

A number of government and non-government agencies have a role in the system. The Department of Internal Affairs (the Department) licenses non-casino gambling, monitors and enforces compliance with the Gambling Act, and administers and audits Lottery grants. DIA also provides the policy functions for the gambling system, and provides secretariat support for the Gambling Commission. The Gambling Commission licenses casinos, determines appeals against regulatory and licensing decisions made by the Department, and advises the Ministers on the setting of the problem gambling levy. The Ministry of Health is responsible for the prevention and treatment of problem gambling. Territorial Local Authorities have a role in setting local policies for gaming machines. The New Zealand Lotteries Commission promotes, organises and conducts lotteries.

The purposes and rules of the gambling regulatory system are set out in the Gambling Act, associated regulations, and rules and standards. Some of the purposes are in conflict and this was a deliberate design feature. Not all the purposes are as clear as they could be. There is a lack of clarity about the meaning of "controlling the growth of gambling” and this has led to discussions with the sector about its interpretation. The competing purposes require us to find a balance, and this has also led to discussions about where the appropriate balance lies. Recently an objective of ensuring a sustainable source of funding for the community has also emerged.

The rules and standards for gambling are available on the DIA website along with considerable guidance on how to comply.

Gambling creates negative externalities in the form of gambling harm, consumer protection issues (e.g. fairness of games) and the potential for criminal activity. The objectives of the system align with DIA's strategic outcome of stronger, more resilient communities, and in particular the strategic focus area of reducing harm to communities.

Key risks to the system and underlying assumptions are documented in sector risk assessments, strategies and operating models that we have developed for class 4 and casino gambling which we consider to be the highest risk sectors for potential harm and crime. We have not developed a risk assessment or operating model for class 3 gambling (typically, large lotteries or housie) and building a better understanding of class 3 gambling is an area that has been identified for improvement.

The gambling system intersects with other regulatory systems such as racing and local government. In addition, gambling venues are subject to numerous other regulatory systems such as workplace health and safety, alcohol licensing, and food safety. The relationships and boundaries between the gambling system and other systems, and agencies within the gambling system are clear and well understood. DIA has good working relationships with the other agencies in the gambling system although we have less contact with local government and this could be improved.

DIA's regulatory function and the Gambling Commission are funded through third party fees. The policy function is Crown funded. Fees are charged on a cost recovery basis and the monetary costs and processes required to deliver the system are well understood. However, we do not have a good understanding of the regulatory burden on parts of the sector, particularly casinos, and we do not have a good understanding of the cost of gambling harm, which is a cost to the system. Some of the costs and benefits in the system are difficult to measure and monetise (e.g. gambling harm, the entertainment value of gambling) and this, along with our lack of understanding of the regulatory burden in parts of the sector mean that we cannot assess whether the system delivers a net benefit.

Currently we have adequate financial and human resources to meet government expectations. Our ability to increase our budget is constrained by the need to ensure that fees charged are sustainable for the sector. We are building workforce capability and undergoing a transformational change to lift practice and embed the culture and practices required to be a really responsive risk-based regulator.

We collect a range of data to inform our policy and regulatory activities. We are working to develop our systems to allow us to systematically and regularly scan the environment or monitor for trends and changes. Technology is changing rapidly and we need to work to understand the implications for regulation of changing technology and online gambling. However, we have made changes in response to the changing environment, such as new Lotto games, and changes to game rules and technical standards.

The Gambling Act is somewhat prescriptive which limits our ability to change rapidly. Gambling tends to generate polarised views among the community and this can make it difficult to achieve a consensus about proposed changes.

The system is deliberately designed to restrain the growth of gambling which means the regulation is not designed to be growth-supporting, particularly in the classes of gambling that carry a high risk of gambling harm. However the regulation is proportional to the risk in that higher risk classes of gambling are subject to more scrutiny and constraints than other, lower risk forms of gambling.

Our regulatory activities are founded on being a responsive risk-based regulator. We take a proportional approach to compliance and tailor our response to the capability of the entity concerned and its willingness to comply. The system is as certain and predictable as it can be within the requirement to treat each individual case within individual context and circumstances. We provide guidance to the sector on how to comply and decisions of the Gambling Commission decisions provide clarity on areas of the law.

We have had regular engagement with the class 4 and casino sectors over the years and in the last two years have worked hard to increase our engagement and change the nature of it to a more collaborative approach. This has allowed us to increase our understanding of the sectors, and to work with entities to assist them to comply. Recent policy processes have included engagement with the sector at an early stage. Where we take compliance action we publish information about the breaches and the outcomes for the sector's information. All Gambling Commission decisions are available on the Commission's website.

DIA has both the policy and regulatory functions for gambling, and there is a close working relationship between the two functions. Policy development is informed by an understanding of the regulatory functions and vice versa. DIA has good working relationships with other agencies in the system and with the casino and class 4 sectors which are the main sectors with professional gambling operators.

The casino and class 4 sectors generally have a good understanding of their obligations. Some clubs that operate gaming machines have less understanding of their obligations and we are working on forming closer relationships with those entities to increase their knowledge and capability. Understanding of the requirements of the system among 'non-professional' operators varies depending on how much involvement they have with the system. For example people running one-off raffles may not be aware that there are rules that they have to comply with, whereas regular housie operators are likely to have a better understanding.

In general, the intersection of the gambling system with other regulatory systems does not create any problems for regulatory effectiveness. However gambling venues are subject to multiple regulatory systems which create a cumulative regulatory burden that could be challenging for them. Some operators in the class 4 sector see local government as a problem although this could reflect frustration with local policies rather than a systemic issue. The system was designed to ensure that local communities could formulate their own policies in respect of class 4 venues and this means that policies will vary across the country.

We have a good understanding of the level of compliance and nature of non-compliance in the class 4 and casino sector. We undertake a range of regulatory activities that assist us to detect non-compliance, for example we have conducted mystery shopper exercises to assist us to determine the level of harm minimisation practice at pubs, clubs and casinos. The lower risk classes of gambling, particularly classes 1 & 2 do not often come to our attention and we do not have a good knowledge of the level of compliance in those sectors. However, as they are low risk sectors they do not warrant as much regulatory focus as the higher risk sectors.

 We take a risk-based approach to non-compliance which means that specific instances of non-compliance are treated according to the nature of the breach and degree of harm. Breaches that are harmless technical matters generally do not attract compliance action whereas deliberate systematic non-compliance will lead to appropriate sanctions. Deliberate and highly-culpable non-compliance may result in loss of licence or prosecution.

The legislation was recently amended to allow class 4 licences to be issued for a period of up to three years. This amendment has provided an opportunity to lift performance in the sector by introducing best practice standards that would have to be met in order to gain a longer licence period. We are working closely with the sector and other stakeholders to develop the best practice standards.

The most recent figures on the prevalence of problem gambling show stable figures that compare favourably to other jurisdictions. We also know that substantial amounts of money are generated and distributed to the community. The system design created a private distribution model for class 4 gambling whereby class 4 societies distribute funds to community purposes. The intention of this model was to create a system where local groups can obtain relatively small amounts of funding easily and quickly, and the system achieves this outcome. Although we have a good understanding of where grant money goes, we do not attempt to assess, at this stage, whether the grants lead to our strategic outcome of stronger communities.

As noted above, it is difficult to assess whether the system delivers a net benefit. Authorised gambling generates approximately $500 million for community purposes each year. Casinos generate profits for shareholders. Gambling also generates tax and rating revenue. Gambling can give rise to problem gambling and criminality but it also delivers benefits such as entertainment and employment.

New Zealand's regulatory model, with its emphasis on community returns, does not have any international equivalents. However, DIA's regulatory approach is based on international and national thinking on regulatory best-practice. We are part of the Australasian Gambling Regulators Forum and we regularly participate in and present at international forums.

We regularly review the policy settings and our practice, and we respond to trends and developments that may have implications for the regulatory system.