Gambling reforms to continue

By Hon Peter Dunne, Minister of Internal Affairs

I was delighted when the Prime Minister asked me to accept the position of Minister of Internal Affairs earlier this year. Having first had responsibility for this portfolio back in 1996, it is clear that much has changed in gambling since that time. Today the Class 4 gambling sector operates under a statutory framework that emphasises strong philanthropic aims, and when run cleanly and efficiently can generate significant benefits for communities. In 2013, Class 4 gambling societies distributed or applied an estimated $290 million to authorised community purposes.

This is great news for good causes in the community. However, I am interested in making the system work better. I will therefore continue with the reforms begun by my predecessor and supported by the Government last year. The objectives of this work are to ensure maximum returns to the community while also reducing the complexity of the regulatory system for businesses. I will explore options to reform the current minimum rate of return to authorised purposes, and to ensure that funds raised from gaming machines are returned to the same area that they were generated in.

It is generally acknowledged by both regulators and operators that the current venue payments model is complex, time-consuming and costly. While no decisions have yet been made on the exact detail of reform, a more efficient model that reduces red tape as well as appropriately compensating venues for their costs is the desired outcome. At the same time, I expect the sector to always have the community benefit at the forefront of what it does - it must show integrity and transparency and be compliant with the requirements of the Gambling Act 2003.

In Class 4 gambling there is a balance to be struck between community benefit and the harm that gambling can cause. I am especially focused on this because of my role as Associate Minister of Health with responsibility for problem gambling issues. I hope that the sector’s engagement in the reform process will underscore its willingness to give the public greater confidence in Class 4 gambling activities. It falls upon the sector to show that the balance between community benefit and gambling harm is firmly on the right side.
Suspensions in context: our compliance approach

The Court of Appeal released a significant decision in December supporting the Department’s ability to impose licence suspensions for past one-off breaches. We discuss this in the context of our wider compliance approach, to ensure a common understanding of how we intend to use suspensions.

Our suspension powers are a tool for encouraging compliance, rather than an opportunity to increase our enforcement activities. Suspensions should be viewed as a possible consequence for significant or recurrent non-compliance. A lack of consequence equates to a lack of incentive for others to maintain compliance.

This is particularly so if compliance is breached for the purpose of gaining commercial advantage. Consider a compliant society which loses a venue to another, because the other society offered benefits that are in breach of the Act. The compliant society loses out despite their exemplary behaviour, and a lack of punishment for the non-compliant society behaviour adds insult to injury. This is not a situation we want any compliant society to be in.

Also, past evidence has shown us that imposing suspensions is more likely to bring about a higher level of compliance by that society in the long term, which is the Department's desired result.

Ultimately, we are aiming for a high level of voluntary compliance across the sector – suspensions provide an important opportunity for that to happen.

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New Zealand Racing Board (NZRB) purchase of Turf Bar, Gisborne

This article has been removed following the retraction of a warning to the NZRB about its purchase of the Turf Bar.

In the original article, we stated that the purchase of the Turf Bar, a Class 4 venue, by the New Zealand Racing Board (NZRB) was in breach of section 118(3) of the Gambling Act.

Section 118(3) prohibits key people from seeking, receiving or offering benefits with conditions attached.

In this case, our position was that the NZRB (a ‘key person’) breached section 118(3) when it made an offer to the venue operator to purchase the Turf Bar. Although the offer was based on commercial terms and an independent valuation, our view was that the normal conditions of sale and purchase of the bar meant that the provisions in section 118(3) were met, and an, unintentional, breach had taken place. We thus issued the NZRB a warning.

However, in a recent unrelated case, the Court of Appeal disagreed with this interpretation. The Court of Appeal’s position is that to breach the law the ‘conditions’ attached would involve the addition of an extra requirement, such as a kick-back or inducement, rather than an ordinary contractual terms.

The Court of Appeal’s decision means the purchase of the Turf Bar was lawful, and as such the Department has retracted the warning given to the NZRB.
Depreciation of gaming machines: our expectations

A High Court judgement released in December 2013 concerned Pub Charity v Department of Internal Affairs CIV-2012-485-705.

In dispute was how the purchase price of gaming machines is to be recognised when calculating the net proceeds of a Class 4 operator’s gambling operation. Pub Charity submitted that the Gambling Act 2003 requires the whole purchase price of new gaming machines to be claimed as a cost in the year of purchase. The Department submitted that a gaming machine is an asset that requires the cost of purchase to be depreciated over the life expectancy of the asset, in accordance with generally accepted accounting principles.

In his judgment, Justice Simon France confirmed the Department’s position – that the purchase price of gaming machines “should be expensed by a depreciation method according to recognised accounting principles”. The judgment was clear that it “would not be a reasonable expense to treat the full purchase price as an expense in the one year if the machine has a longer estimated useful life”.

Justice France’s decision also confirmed the Department’s position that the cost of gaming machines (by way of depreciation expense) must be an actual, reasonable and necessary expense deducted from gross proceeds, that is, “once the proceeds are realised, there are only two things that can happen to them – they are expended by way of authorised costs … or they are distributed back to the community”.

Pub Charity has appealed the judgment to the Court of Appeal.

What does this decision mean for Class 4 operators?

The Department considers that for most Class 4 operators, the High Court decision will confirm their current practice in using a depreciation expense to account for the purchase of gaming machine assets.

Until a decision on the appeal has been made in the Court of Appeal, the Department requires Class 4 societies to depreciate the purchase of gaming machines over their estimated useful life (by way of a depreciation expense) in accordance with the High Court judgment.
Prosecutions aided by sector cooperation

The first quarter of 2014 has already seen a number of prosecutions in the courts involving the misuse of gaming machine money.

Such prosecutions come about either because of scrutiny by the Department of Internal Affairs or in some cases because of scrutiny by those within the sector.

One of the recent court cases was brought because information was passed to the Department by the New Zealand Community Trust (NZCT).

A former sports organisation treasurer, Henry Joseph Mackie, 52, of Whangarei used false and altered documents to obtain gaming machine grants from the NZCT, Pub Charity Inc and the Oxford Trust.

This case highlights the importance of thorough and sound grant auditing processes, and the benefits to the sector as a whole in taking a collaborative approach to compliance. The Department encourages societies to be vigilant in auditing of grants and not to hesitate in raising suspected breaches of the Gambling Act.

Director of Gambling Compliance, Debbie Despard says: “The community is the ultimate beneficiary of the gaming machine proceeds. The illegal use of pokie money is effectively stealing from the community and community groups miss out.”

Mackie pleaded guilty and was convicted of 14 charges of using a document for pecuniary advantage and one charge of false accounting. He was sentenced to three months community detention, 200 hours community service and ordered to pay reparation of $8000 at $100 per week.

Further information can be found in the corresponding media releases on our website (www.dia.govt.nz/gambling).

Other recent prosecutions

• Daniel Joseph Clifford, 58, convicted of dishonestly using a document; sentenced to nine months home detention and 200 hours community work in the Manukau District Court.

• Michael Anthony McGurk, 54, of Takapuna; convicted of theft of $35,000; sentencing will take place in July 2014.

• Patrick Francis Williams, 67, convicted of five charges of theft by a person in a special relationship totalling $93,127.12; sentencing will take place in April 2014.

• John Mark Bradfield, 45, of Auckland; convicted of theft by a person in a special relationship of nearly $10,000; sentencing will take place in April.

• Jane Bridget Hamilton, 38, convicted of two charges of theft by a person in a special relationship of more than $90,000 and two of false accounting; sentencing will take place in May.
Learning lessons from audits

We publish audit reports of Class 4 societies, and several have recently been uploaded to our website. We consider the issues in these audits, and the recommendations made should serve as a precedent to others in the sector. Whilst in most cases we have extended the opportunity to rectify these issues and avoid sanction, issues of a similar nature in future may result in licence suspensions.

Of particular interest to the Department is the recurring issue of unnecessary or exorbitant expenses, and excessive salaries of society officers or employees. It is timely to remind societies that all expenses must meet the “actual, reasonable, necessary” test. The Department expects to see line-by-line analysis where spending is contemplated. Our expectation for salaries of senior staff is to see them benchmarked to the “charity, not for profit” sector, rather than the corporate sector.

Also to note are the challenges in auditing grants for sporting purposes. North and South Trust received some media attention in September about this issue. We recognise that this is not a unique challenge for North and South, and refer you to the guidelines published in the September issue of Gambits on who is eligible for grants and what the grants can be for. These guidelines should be adhered to, as further incidents of this issue may result in sanctions. It should be noted that the Department is satisfied with the actions taken by North and South to rectify the issue.

It should also be pointed out that, by the time we publish these reports, the issues they raise will have, in the main, been rectified.

Gambits getting a makeover

It will come as no surprise that at the Department we are always looking to improve how we do things. Something we have been pondering for a while is how to communicate more efficiently and effectively with our readers, in a user-friendly way.

We have decided it is time we updated Gambits making use of the technology that a vast majority of you are already using. We are moving to an online newsletter, dubbed E-Gambits, which will be delivered to your email inboxes across the country.

E-Gambits will not be Gambits as we know it. One of the many advantages of an email-based newsletter is that the cost is far less, so we can send information more often. It will take the form of as-they-happen news updates, so you get the information when you need it; every two months we will send a lengthier version addressing big issues and our strategic direction, and updates on statistics and reports. Everything we send you will be uploaded to our website and be much easier to refer back to.

We recognise that some people are fond of the printed publication, but we have assessed the information we provide, and much of it is most relevant and valuable if it is delivered in a timely fashion, so we want to make that happen. We have not ruled out some form of printed publication at a lower frequency and distribution, so if you think we need one we would love to hear your ideas.

We will keep you posted on any of the technical details about how to subscribe to the new E-Gambits, but you can expect it to start popping up in your inbox around mid-year. Watch this space!

Feedback on our new approach to Gambits can be emailed to: Sector.Initiatives@dia.govt.nz; Trevor.Henry@dia.govt.nz
Reinforcing the value of MVE

Neove Christoforou of Gambling Compliance’s Sector Initiatives team continues to lead roll-outs of the Multi Venue Exclusion programme (MVE). Recently we were reminded of its importance and impact by a man unlucky to live in an area that has not yet implemented the programme. Following advice from a venue, he contacted the Department for assistance.

We referred him to a problem gambling provider who could guide him through the exclusion process so we hope this resolved and improved his situation. But it reinforces the importance of MVE as one of a range of interventions to help problem gamblers.

Due to the complexity of gambling addiction, not all prevention options are effective for every problem gambler. This person, who displayed a genuine desire to resolve his gambling problem, felt that exclusion was the only thing that worked for him. In his correspondence with us, he stated: “I’m well aware of the Helpline and help available but I can’t stress enough the urgency in rolling out the multi venue process. If it had been in place five years ago things might be a lot different now for me.”

We take this feedback on board. As reported in the last issue of Gambits, New Plymouth recently implemented MVEs, with wider Taranaki to follow in the coming weeks. The MVE Coordinator for New Plymouth is Sandi Cummings.

Next on the schedule are Whangarei and Wairoa.

Exploring ways to make gambling venues safer

Ensuring patrons’ safety in gambling venues is a critical element for harm prevention and minimisation, and for maintaining integrity in the sector. It is about doing everything we can to allow patrons to gamble responsibly, without putting them at unnecessary risk of developing gambling problems.

At the Stakeholder Reference Group last November we announced the Safer Gambling Venues project, which is committed to exploring further ways to increase safety in venues and promote best practice.

Sector Initiatives is leading the project, which focuses on access to gaming areas, host responsibility and venue staff training. We will be looking at what the current practice and standards are in these areas, and assessing their effectiveness and appropriateness to the current operating environment. If we find opportunities for improvement, we will work with venues and societies to make that happen. The initial focus for this project is on Class 4 venues. However any opportunities will also be considered for their relevance in the casino sector, and we will include casinos accordingly.

Alongside this project, the Department is working on a review of the Harm Prevention and Minimisation Regulations, and a best practice host responsibility policy.

To initiate some of this work, we will request information from various sector groups that will help us understand current practice, challenges, and any existing opportunities. Specifically, societies and clubs can expect shortly to receive requests for information about venue staff training programmes and host responsibility policies. Further requests, discussions or surveys may follow.

We will keep you up-to-date on progress in this area, and welcome any suggestions of areas on which to focus that would have a significant impact on the safety of gambling patrons.
Lion Foundation’s GMP helps newborns at Middlemore

In the constant struggle to prevent problem gambling and minimise harm, it is useful to be reminded of the benefit gaming machine proceeds bring to the community.

A recent example that will strike a chord with many is the Lion Foundation’s grant to the Middlemore Foundation for new equipment essential to the neonatal intensive care unit at Middlemore Hospital. The grant is one of the largest lump-sum donations ever given to the hospital, and one of the largest grants Lion distributed in 2013.

The newborn unit needed an urgent replacement for a machine used for scanning for holes in babies’ hearts, brain bleeds and blocked kidneys, after the previous one broke down.

The replacement machine and a range of other equipment that the funds will be put towards is lifesaving for the most vulnerable members of our community.

It should not be suggested that such community benefit outweighs the harm to problem gamblers, but it is a positive reminder that the industry we work in is about striking a balance, in which the pursuit of one value should not be at the expense of another.

Service providers’ collective approach to problem gambling

The Department hosted at the end of February the central region’s Gamble JAM (joint-agency meeting), a bi-monthly meeting for problem gambling providers.

Gamble JAM takes place across the regions and is attended by the Department and the Health Promotion Agency. Providers meet to share knowledge and the latest initiatives, trends and issues, which also provides a valuable opportunity to network and strengthen relationships.

There are many areas within both clinical and public health work that benefit from a consistent approach. The forum is also used to ensure a consistent approach by gambling service providers for policy reviews and peer support for clinical initiatives and public health campaigns like Gamble Free Day.
From the Health Promotion Agency (HPA)

Choice Not Chance - New Campaign Launch May 2014

A new national gambling harm campaign is currently in development and is due to air across the country from May.

A series of TV and radio advertisements will seek to highlight three early signs of risk that all gamblers should watch out for – chasing losses, lying about or concealing the extent of their gambling, and the hidden stress it can cause. This campaign, targeted primarily at those aged 18-34, will outline these key signs in an engaging and destigmatising way and ask people to take positive action. For those seeking advice or support the campaign will direct them to the 0800 Gambling Helpline and to the Choice Not Chance website, which will be rereleased in May to coincide with the campaign launch.

Like previous campaigns (Coin Toss and Kiwi Lives) there will be a number of TV and radio advertisements. These will be coupled with an increased online advertising presence and a number of interactive tools on the Choice Not Chance website.

Gambling-related harm is an important health issue in New Zealand and has significant negative health, social and economic implications. Evidence suggests that taking action when the early signs of harmful gambling appear will prevent the problem getting worse and will reduce the level of gambling-related harm experienced by the gambler and those around them. The HPAs work in this area aims to motivate people to seek help and take positive action early, both for themselves and for others they care about.

Class 4 Venue Research

The HPA is interested in working closely with the Department of Internal Affairs, the gambling industry as well as venues and problem gambling services across the country with a view to extending its Choice Not Chance campaign to include displaying messages in and around venues.

In December 2013, members of the HPA research team held a number of one-on-one interviews with bar staff in three regions as well as regular pokie players to find out more about what was working well and what barriers still exist around identifying and acting on risky player behaviours. We would like to take this opportunity to again thank those that gave their time to participate in this project, especially at such a busy time of year for the hospitality sector.

A report summarising the research findings is being prepared and will be available on the HPA website (www.hpa.org.nz) shortly.

GAMBITS’ EDITOR

If you have any questions about articles in Gambits, would like further information or have comments about what information we could provide to make Gambits more useful to you, please contact Trevor Henry:

Telephone: 04 495 7211 or 021 245 8642 | Email: trevor.henry@dia.govt.nz
Keeping it simple: Class 4 licensing reminders

Here are a few updates on best practice, and suggested approaches to make life easier and avoid unnecessary delays during the licensing process.

Licensing application forms

We remind societies that all licence applications must now be completed on the new forms available from our website (www.dia.govt.nz/gambling). Please check periodically to ensure the latest forms are being used.

Application forms are still undergoing minor changes and amendments to meet the requirements of the Integrated Gambling Platform (IGP) and the Department has taken the opportunity to continue refining forms to more clearly define information requirements.

Please ensure all applicable information is entered on the forms as IGP enforces strict validation rules. Incomplete applications will be returned unprocessed.

IGP will enable the Department to better manage the whole compliance regime for gambling. Work is under way on more modules of IGP. The next modules will be for Class 3 licence application processing and for a range of compliance activities done by the Department.

The most recently updated forms are listed below, along with the date they were updated. If you are unsure whether something has changed since you last used it, you can refer to this date on the web page.

- GC1B Operator’s Licence Cert B; updated 2/12/2013
- GC3 Application for New Venue Licence; updated 2/12/2013
- GC6 GMAS Renewal Cert B; updated 11/07/2013
- GC2 Operator’s Licence Key Person Amendment; updated 29/10/2013
- GC4A Venue Licence Amendment and Non Key Person; updated 31/01/2014
- GC4 Venue Licence Key Person Notification; updated 22/10/2013.

Key Person suitability and employment agreements

The Class 4 gambling sector is under constant public scrutiny and the integrity of the sector depends on the individuals working within it. Therefore one of the Department’s key goals is to ensure the integrity of key persons. The Secretary for Internal Affairs (the Secretary) investigates the suitability of key persons during the licensing process, and must refuse to grant or amend a Class 4 venue or operator’s licence if he is not satisfied a key person is suitable.

If the Secretary is not satisfied with the suitability of a key person, they cannot work in Class 4 gambling. This has the potential to put employers (venues or societies) in a difficult position if they have established employment prior to key person status being confirmed.

We suggest employers consider including clauses enabling the termination of a key person’s employment agreement in the event that the Secretary is not satisfied about the key person’s suitability.

GC2 (Class 4 Operator’s Licence Key Person Amendments/Notifications), and GC5 (Key Person Applicant’s Personal Information) forms must be submitted to the Department as soon as is practicable (by the society) for all new key people.
Obligation on disposal of gaming machines

Section 83 of the Gambling Act requires a holder of a Class 4 operator’s licence to provide information to the Department when disposing of gaming machines.

This information is particularly important for licensing when gaming machines move between societies. Due to increased validation capabilities introduced by IGP we are finding a number of occurrences where notifications have not been made. In the case of venue transfers, there have been difficulties in issuing a licence because some gaming machines fail validation as they are not in the notified state to allow transfer.

The Department reminds societies of the importance of being notified of gaming machine disposals. It is an offence not to provide the information within 20 working days of disposing of a gaming machine.

All disposal notifications must be completed on a GC4A form. No fee is required where the notification is purely for the purpose of gaming machine disposals.

Section 83 Wording

(1) The holder of a Class 4 operator’s licence must provide the following information to the Secretary within 20 working days of disposing of a gaming machine:

   (a) the means of disposal; and

   (b) the name of the acquirer of the gaming machine and the details necessary to contact the acquirer with ease.

(2) The holder of a Class 4 operator’s licence who contravenes this section commits an offence and is liable on conviction to a fine not exceeding $5,000.

Reminder: Demise of Class 4 non-downloadable jackpots

There are just over 18 months to 1 December 2015 when Class 4 non-downloadable jackpots must cease operation, as detailed in the December 2010 edition of Gambits.

A new version of the Minimum Technical Requirements for Class 4 Linked Jackpot Systems was notified in the NZ Gazette and took effect from 2 December 2010, requiring all new jackpots to be downloadable and allowing existing, licensed non-downloadable jackpots to operate until 1 December 2015.

The Department suggests that, if you intend to replace your current non-downloadable jackpot with a downloadable jackpot, you give some thought to planning the changeover, such as the associated costs and installation times. You may wish to approach your intended supplier to discuss this.
Pokie expenditure drops in calendar year 2013

Gaming machine expenditure in the year ended December 2013 dropped 3.4 per cent from $839.7 m to $811.5 m. There were also fewer licence holders, gambling venues and gaming machines compared with 12 months earlier.

ANNUAL NON-CASINO GAMING MACHINE EXPENDITURE
CALENDAR YEAR

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Between the third and fourth quarters of 2013 spending rose $684,455, from $206 million at the end of September to $206.7 million at 31 December 2013.
The Department’s gambling compliance and licensing inspectors each have responsibilities for liaising with gaming machine societies. If societies have issues to discuss, they may contact these inspectors first by phoning the Department’s toll free number 0800 257 887.

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</tr>
<tr>
<td>TRUST HOUSE FOUNDATION</td>
<td>Garth Cherrington ext 5520</td>
<td>Brent Addison ext 5345</td>
</tr>
<tr>
<td>WHITEHOUSE TAVERN TRUST</td>
<td>Cliff Simpson ext 7937</td>
<td>Kerry Dyer ext 7151</td>
</tr>
<tr>
<td>YOUTHTOWN INCORPORATED</td>
<td>Trevor Franklin ext 7573</td>
<td>Jeremy Belcher ext 7916</td>
</tr>
<tr>
<td>MASSE FOUNDATION INC</td>
<td>Andy Cruickshank ext 7267</td>
<td>Kevin Tung ext 7920</td>
</tr>
<tr>
<td>POCKETS 8 BALL CLUB</td>
<td>Clark McMichael ext 7268</td>
<td>Kevin Tung ext 7920</td>
</tr>
</tbody>
</table>
**Regulatory Services**

Gambling compliance issues are covered by Regulatory Services which sits within the Department’s Policy, Regulatory and Ethnic Affairs branch under Deputy Chief Executive, Paul James.

The branch encompasses all the roles where the Department is, in effect, the regulator of a sector of the economy. In addition to gambling, this includes community safety (censorship and anti-spam compliance), fire service policy, identity services policy, local government, community and voluntary sector policy, crown entity monitoring functions, and Office of Ethnic Affairs. For the sake of simplicity, functions outside of the gambling sector are not included on this page.

**Regulatory Services:** Responsible for all regulation and compliance operations (and operational policy) including anti-spam, censorship, gambling, racing, anti-money laundering and countering financing of terrorism.

**Operations Support:** Provides support and assistance to operational compliance functions across the group and wider Department.

**Regulatory Investigations:** Undertakes significant (complex, cross group, lengthy and sensitive) investigation projects involving criminal, legal and financial issues related to the governance and operation of gaming sector people and organisations. Provides expertise and support to investigations and audits across the group.

**Financial Integrity:** Under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, monitors casinos, non-deposit-taking lenders, money changers and reporting entities not covered by the other supervisors, The Reserve Bank and the Securities Commission.

**Gambling Compliance:** Responsible for the Inspectors and other staff working with the gambling sector to bring about compliance with the law. Works closely with Policy so that there is a constant flow of information between the staff involved in applying the law and those who develop the law.

**Gaming Technology:** This position oversees the technical integrity of gaming issues across casino and all other classes of gambling.

**Operational Policy:** Provides support and advice to the Inspectors and other staff working in the sector. Develops standards, game rules and other “deemed regulations”. In broad terms, develops Department policies for how the law will be turned into the work done in the field.

**Casino Compliance:** Responsible for working with the casino sector to bring about compliance with the law.

**Licensing Compliance:** Responsible for Class 4 Licensing, championing a new electronic licensing regime and management oversight of the Electronic Monitoring System (EMS) contract with Intralot.

**Sector Initiatives:** Responsible for developing new and innovative approaches to promoting and securing increased compliance across the gambling sector.
Do you want to receive Departmental media releases and Gambits?

If you would like to have your organisation added to the Department’s distribution list for media releases about gambling issues, or want to receive Gambits but are not currently on the mailing list, please fill out this form and return it, or email the information to:

Trevor Henry, Communications Advisor, Department of Internal Affairs
PO Box 805, Wellington 6140
Telephone: (04) 495 7211, Fax: (04) 495 7224, Email: trevor.henry@dia.govt.nz

Organisation name: ____________________________

Contact person: ________________________________

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