The primary function of Operational Policy is to assist in implementing the provisions of the Gambling Act 2003 and associated regulations. These guidelines provide Operational Policy ("OP") with a series of tools with which it can identify and determine appropriate regulatory responses to harm prevention, harm minimisation and responsible gambling implications of internal and external gambling initiatives or developments, including new technology.

Our approach will be evidence-based in the first instance. We will use the best available evidence (direct or indirect). Where research or other evidence is unavailable, ambiguous or of poor quality, and we have a reasonable level of concern that reasonably significant and/or widespread harm may occur, we will adopt a precautionary approach.

This document sets out the position on gambling harm as defined in the Gambling Act 2003 ("the Act") and any associated regulations. The guidelines consist of the following –

- Relevant statutory provisions under the Act and any associated regulations that OP regularly acts in reference to
- A set of principles based on the Act and associated regulations, best practice principles of public policy development and administrative law
- A set of grounds upon which we base our approach to gambling, including problem gambling
- OP’s approach to working with uncertainty
- A set of decision-making criteria/questions, derived from the above that can be applied to any relevant issue identified either internally or externally.
The guidelines are derived from the Act and associated regulations, the principles and processes of administrative law and best practice in regard to good regulation.

The Act and any regulations made under the Act override the guidelines. Further, the guidelines are simply a tool that cannot fetter our discretion in any particular case.

**Purpose**

The primary function of OP is to exercise its statutory powers of decision in order to assist in implementing the provisions of the Gambling Act 2003 and associated regulations. The purpose of the harm prevention, harm minimisation and responsible gambling guidelines is to provide people exercising these statutory powers of decision in an operational context (primarily OP) with criteria and guidelines to develop, respond to or inform –

- **Internal operational initiatives**: the pro-active development of –
  - operational policy
  - licence conditions
  - game rules
  - *Gazette* notices
  - minimum standards, and
  - minimum operating standards.

  This is to ensure that potential harm and/or risk related to gambling, including problem gambling is identified at the earliest opportunity and addressed in the most appropriate regulatory manner.

- **External operational initiatives**: how we respond to requests for new operational policies, licence conditions or amendments, game rules, minimum standards and minimum operating standards. Such requests may come from any of the following –
  - The Gambling Commission
  - The Ministry of Health
  - Gambling providers or allied industries
  - The community.

- **Internal operational responses to new or emerging technologies**: such technologies may generally come to our attention via our own horizon scanning or gambling industry initiatives.

The guidelines explicitly acknowledge that we are often required to make operational decisions in an environment of uncertainty. Currently research into the potential for harm of certain gambling activities or products is limited. Similarly, research into the effectiveness of harm prevention and minimisation initiatives is in its infancy.

**Scope**

These guidelines apply primarily to the Gambling Compliance business, and more specifically to work done by the Operational Policy team within
Gambling Compliance. They refer to how we assesses the harm prevention/minimisation and responsible gambling implications of our own initiatives and those of our stakeholders.

These guidelines do not include areas where there are clear statutory criteria for assessment or criteria set out in any regulations under the Act, e.g. compliance and enforcement action.

The guidelines do not apply to the consideration and drafting of regulations or amendments to the Act. While they may inform certain aspects of legislative policy work or advice to the Minister, the guidelines are not intended to substitute for the process that a policy analyst must go through in order to develop legislative policy. Where an issue requires (or may require) a regulatory response beyond the role of the Operational Policy team, we will refer the matter to the Gaming, Racing and Censorship Policy (“Policy”) team.

The document is a ‘living document’ and receptive to change as our views evolve and more research becomes available.

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### Purpose of the Gambling Act (2003)

The purpose of the Gambling Act 2003, is, among other things, to –

- Control the growth of gambling
- Prevent and minimise the harm caused by gambling, including problem gambling, and
- Facilitate responsible gambling.

The Act balances these factors against others, such as ensuring profits benefit the community, ensuring gambling is free from crime and facilitating community involvement.

### Problem Gambling

Problem gambling is gambling that causes harm or may cause harm. Sometimes the harm may result from just one gambling session. In other cases, it might be the result of regular gambling sessions over a period of time and involving substantial amounts of money. The harmful effects of problem gambling can include –

- Financial problems
- Problems at work (ranging from poor performance to fraud)
- Poor parenting and other relationship problems
- Family violence
- Alcohol abuse
- Mental health problems.

Sometimes the damage is irreversible, for example suicide.

Problem gambling almost invariably affects both the gamblers themselves and other people in their lives.
Under the Act the definition of “harm” is very broad, including personal, social and economic harm. It is not confined to an individual – others can and do suffer “harm” as a result of a person’s gambling.

“Harm” –
(a) Means harm or distress of any kind arising from, or caused or exacerbated by, a person’s gambling; and
(b) Includes personal, social, or economic harm suffered –
i. By the person; or
ii. The person’s spouse, partner, family, whanau, or wider community; or
iii. In the workplace; or
iv. By society at large.

The definition of “harm” focuses on the behaviour (gambling) rather than the individual (the problem gambler). If we focus on the individual problem gambler, we tend to think in terms of treatment for someone who is sick. This is damage control, or harm minimisation. However, if we focus on the behaviour, as the definition of “harm” does, we tend to think in terms of harm prevention, for example, by making gambling safer so that fewer people engage in problematic behaviour in the first place.

Responsible Gambling

The Act also addresses responsible gambling which focuses on –

- The integrity of gambling
- The environment gambling is conducted in
- Gambling without pressure or devices
- Informed participation in gambling.

“Responsible Gambling” means lawful participation in gambling that is –
(a) Lawful, fair and honest; and
(b) Conducted –
i. In a safe and secure environment; and
ii. Without pressure or devices designed to encourage gambling at levels that may cause harm; and
iii. By informed participants who understand the nature of the activity and do not participate in ways that may cause harm.

Responsible gambling is largely about gamblers’ rights, and the obligations of gambling operators. Under the Act, responsible gambling is not primarily about individual gamblers taking responsibility for their own actions.

Issue Identification

The primary function of Operational Policy is to assist in implementing the provisions of the Gambling Act 2003 and associated regulations. The guidelines will help OP to focus its thinking when faced with operational issues it has identified, when the Gambling Commission or the Ministry of Health has requested comment or information from it and when the sector,
including the community, requests or requires something from it. The need to respond to new or emerging technologies could arise out of any of these avenues.

In order to do this however, we need to not only be responsive to issues raised by our stakeholders, we also need to actively and in an organised way scan our collective intelligence and information sources to identify emerging issues and begin formulating responses on our own initiative. Horizon scanning is crucial for ensuring that OP is not primarily engaged in reactive operational policy development and decision-making. Collective intelligence and information sources include any of the following:

- Industry websites and watchdogs
- Industry magazines and publications
- Research assessed by the Policy team
- Regulators’ forums
- Industry forums and conferences
- Joint Expert Advisory Group on Preventing and Minimising Gambling Harm
- Combined enforcement agency intelligence
- Intelligence from compliance units.

As part of an organised OP strategy to consider issues related to gambling harm, it is recommended that we regularly scan our sources to identify new or emerging issues, including emerging gambling technologies, or technologies not immediately connected to gambling that may nonetheless have consequences for the provision of gambling, e.g. mobile eft-pos facilities or blue-tooth wireless technology that may assist in cheating.

**Note:** It is not the function of OP or these guidelines to set a research agenda. It is the role of the Policy team to source and integrate relevant research and co-ordinate an agreed DIA response. It is quite likely that if we are scanning sources as described above, we will come across a new piece of research – in which case we must pass it to the Policy team. We do not comment outside the Department on external research until the Policy team has assessed it.

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**Range of Regulatory Responses**

Our regulatory response to issues or initiatives is congruent with DIA’s responses generally and will derive from and, where relevant, be consistent with the following –

1. Specific, relevant statutory provisions contained in the Act and associated regulations, for example, the ability to make, amend or revoke class 4 licence conditions, game rules, minimum standards or minimum operating standards

2. Relevant purposes of the Act

3. Relevant principles, processes and requirements of administrative law

4. Best practice principles of good regulation.
Our regulatory responses run on a continuum from taking no formal action, to deferring decisions whilst research is conducted or integrated, education and persuasion (including implementation advice to gambling inspectors and the sector), operational interventions (minimum operating standards, game rules, class 4 license conditions) and technical interventions (minimum standards and requirements for gambling equipment to be approved). In some instances we may refer a matter to the Policy Team to consider the development of regulations or advice to government that the Act or associated regulations may require amendment. In other instances we may refer a matter to the relevant compliance team for enforcement action. In both instances we will support the relevant teams with operational policy advice and information.

We will use a balance of tools to ensure that we make decisions in a way that is fair, balanced and proportional to the nature of the issues we address.

The guidelines outlined below provide us with the opportunity to consider the broader potential for harm or responsible gambling of sometimes seemingly innocuous applications.

In applying the guidelines it is important to keep in mind the following –

1. The Act and any regulations made under the Act override the guidelines.

2. The guidelines cannot fetter our discretion in any particular case, and decisions will always be made in accordance with the principles of administrative law.

3. We will always consult with those affected, take into account relevant considerations, and not take into account irrelevant considerations, on a case-by-case basis.

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**Guidelines**

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**Content**

The guidelines contain the following:

- Relevant **statutory provisions** under the Act and associated regulations that OP regularly acts in reference to
- A set of **principles** based on the Act and associated regulations, best practice principles of public policy development and administrative law
- A set of **grounds** upon which we base our approach to gambling, including problem gambling
- OP’s **approach** to working with uncertainty
- A set of **decision-making criteria/questions**, derived from the above that can be applied to any relevant issue identified either internally or
Operational Policy will, in the first instance, consider any issue before it in light of the specific statutory provision or regulation relating to the issue, including any procedures prescribed by the relevant statute.

The table below outlines the statutory powers of decision that have been delegated to OP (with the exception of licence conditions in relation to casinos, where we have the ability to make requests and submissions to the Gambling Commission, rather than make decisions). On a day-to-day basis and in relation to harm prevention, harm minimisation and responsible gambling, OP may be required to make operational or implementation decisions on issues relating to any of the provisions outlined below.

<table>
<thead>
<tr>
<th>Category of Gambling</th>
<th>Regulatory Tool</th>
<th>Power/Function</th>
<th>Relationship to gambling harm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Classes 1 – 4, and casino gambling</td>
<td>Game rules (section 367)</td>
<td>The power to make rules, and amend or revoke rules for – Playing or participating in particular games; and for the systems, processes, information, and documentation to be associated with particular games.</td>
<td>Ensure games are lawful, fair and honest. Provide a complaints procedure. Have been used in relation to C4 gambling to require records to be kept regarding exclusion orders. In relation to casinos, section 11 may be relevant: ‘A person must not increase opportunities for casino gambling’.</td>
</tr>
<tr>
<td>Class 3 gambling</td>
<td>C3 Operator’s licence</td>
<td>Power to grant, renew, amend, add or revoke a class 3 operator’s licence and licence conditions, or refuse to do any of the above (sections 37 – 49).</td>
<td>Secretary may attach conditions ‘intended to minimise risks of players becoming problem gamblers’ (section 38(2)(a)).</td>
</tr>
<tr>
<td>Class 4 gambling</td>
<td>C4 Operator’s licence and licence conditions</td>
<td>Power to grant, renew, amend, add or revoke a class 4 operator’s licence and associated licence conditions, or refuse to do any of the above (sections 50 – 64).</td>
<td>Consider statements on how applicants propose to minimise the risks of problem gambling (including the society’s policy for identifying problem gamblers) (section 50(c)). Must be satisfied that the applicant will minimise the risks of problem gambling (section 52(1)(g)). May attach licence conditions ‘intended to minimise the risks of players becoming problem gamblers’ (section 53(2)(a)).</td>
</tr>
</tbody>
</table>
| **Class 4 gambling** | **Venue licence and licence conditions** | **Power to grant, renew, amend, add or revoke a class 4 venue licence and associated licence conditions, or refuse to do any of the above (sections 65 – 80).** | **Consider statement by applicant on how they propose to minimise the risks of problem gambling and underage gambling at the class 4 venue (section 65(2)(d)).**  
Must be satisfied that the ‘possibility of persons under the age of 18 years old gaining access to class 4 gambling at the gambling venue is minimal’ (section 67(1)(b); and the risk of problem gambling at the class 4 venue is minimised (section 67(1)(p)).  
May add conditions to class 4 venue licence to ‘minimise the possibility of persons under 18 years old gaining access to class 4 gambling at the class 4 venue’ (section 70(2)(b); and ‘procedures to encourage responsible gambling at the venue’ (section 70(2)(h)). |
|---|---|---|---|
| **Casino Gambling** | **Licence conditions** | **Request that the Gambling Commission specify, vary or revoke the conditions of a casino licence (section 139(1)(e)).  
Make submissions to the Gambling Commission as part of consultation under section 140(3) of the Act.  
Apply to the Gambling Commission under section 144 for a casino licence to be cancelled or suspended.** | **Any current licence conditions that deal with problem gambling and host responsibility.  
Schedule 1 (1) Initiatives to encourage responsible gambling; and (2) initiatives to minimise harm.  
Licence conditions must be consistent with the Act, and must not permit an increase in the opportunities for casino gambling (section 139(2)).** |
| **Casino gambling** | **Minimum operating standards** | **Specify, vary or revoke minimum operating standards for inclusion in a casino licence, or refuse to specify, vary or revoke minimum operating standards for inclusion in a casino licence (sections 141 – 142)** | **Must relate to the day-to-day operation of casino.  
Have been used to impose notification and recording requirements in relation to exclusion orders.  
General integrity, accountability and security of casino gambling.  
Must not constitute an increase in the opportunities for casino gambling.** |
| **Gambling equipment** | Minimum standards          | Gambling equipment must comply with minimum standards. Secretary may, by notice in the Gazette, declare that any particular gambling equipment must be approved by the Secretary as complying with relevant minimum standards before it may be used under a licence granted under the Act (section 326). *(Note: we have done this, therefore, section 326(2)(b) is activated and we must approve all relevant gambling equipment).*

Secretary may prescribe minimum standards for the design, manufacture, and performance of any particular gambling equipment, or class of gambling equipment and may at any time amend or revoke any minimum standard. (section 327(1)).

Power to disable or seal gambling equipment that the Secretary reasonably believes does not comply with minimum standards, is faulty, or has been tampered with (section 85). *(May relate to both Gambling Inspectors, and OP Technical staff).*

Minimum standards may include requirements that gambling equipment has features designed to reduce the likelihood of problem gambling or other harm arising from its use (section 327(2)(a)).

Must not constitute an increase in the opportunities for casino gambling.

There is a general implication in the Act that the Secretary should not approve standards that may bring about an increase in harm. |
| **Lotteries Commission** | Game design | Approval of game design under current game rules. |

Rules made by the Lotteries Commission must have regard to the desirability of –

Minimising the risk of players or participants in New Zealand lotteries becoming problem gamblers; and

minimising the risk of under-age gambling (section 243(6)).

**NOTE:** The Policy Team drafts these rules. OP’s role is confined to approving game design pursuant to the rules. OP will also alert Policy to any concerns that we consider should be brought to the attention of the Minister.

| **Casino gambling** | Gambling equipment must be kept in casino venue | Power, upon application, to exempt casino licensee from this requirement, in respect of specified gambling equipment, and permit the licence holder to temporarily remove specified gambling equipment from the casino venue.

May impose conditions on an exemption or permission.

Has been used to permit use of gambling equipment for promotional purposes.

Whilst no gambling is conducted off-site, principles of responsible gambling remain relevant; e.g. not targeting vulnerable populations (minors) etc. |
Casino gambling

| Rules for casino promotions | Power (generally of the inspectorate rather than OP) to observe inconsistency between the operation of a promotion and licence conditions that require operators to abide by ASA Code of Advertising Gambling. | Definition of responsible gambling. Definition of sales promotions. Conduct of promotions generally, customer service initiatives and other casino activities including marketing fall within the inspection and monitoring functions of gambling inspectors. |

In addition to the provisions in the table, OP is often required to provide operational and implementation advice in relation to other issues and decisions that have a connection with harm prevention, harm minimisation and responsible gambling. For example, OP has developed guidelines and provided advice to the sector and internally on various aspects of the Gambling (Harm Prevention and Minimisation) Regulations 2004. Such advice is always subject to the relevant provision in the first instance, then other relevant sections of the Gambling Act, administrative law and any available and relevant best practice policies or processes.

Principles

In addition to the above, OP shall ensure that as far as possible its considerations are –

1. Consistent with the section 3 purposes of the Gambling Act 2003 including –
   1.1 Preventing and minimising the harm caused by gambling, including problem gambling
   1.2 Facilitating responsible gambling.

2. Considered alongside and balanced against the other purposes of the Gambling Act set out in Section 3

3. Consistent with statutory criteria for assessment or criteria set out in any regulations made under the Act

4. Take into account the Ministry of Health’s Problem Gambling Strategy

5. Based on consultation between the community, the industry and Government in accordance with the consultation provisions in the Gambling Act. Consultation with affected bodies helps us to include all legitimate matters for consideration and identify unintended consequences

6. Consistent with ‘best practice’ principles of public policy development, including –

   6.1 Proportionality – interventions, remedies, or other decisions

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are appropriate to the risk posed

6.2 Accountability – decisions are justified and subject to public scrutiny

6.3 Consistency – interventions take account of existing measures, and where appropriate, the approach taken by other jurisdictions

6.4 Transparency – interventions are clearly defined and communicated, with the industry given time and support to comply

6.5 Targeting – interventions are focused on the problem and a clear outcome.

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**Grounds for our approach to gambling**

1. The Gambling Act 2003, including its purpose, the various harm minimisation initiatives it contains, the regulatory-making powers it facilitates and the Gambling (Harm Prevention and Minimisation) Regulations 2004, are an indication that New Zealand society has chosen a high level of protection against the risks posed by gambling and problem gambling.

2. A key risk factor associated with gambling and problem gambling is regular participation in any continuous form of gambling, especially gaming machines.

3. Of those who gamble regularly on gaming machines in New Zealand, at least one in five are likely to experience harm as a direct result.

4. Gaming machines in particular are highly accessible continuous forms of gambling that are clearly linked to demonstrable harm.

5. Recreational gambling, that is, participation in gambling that is not harmful, is a legitimate leisure activity for many New Zealanders, provided that it meets the requirements under the Gambling Act 2003.

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**Operational Policy: Approach to managing uncertainty**

The key driver behind OP’s approach to harm prevention, harm minimisation and responsible gambling is to support the community’s interests by preventing and minimising harm and reducing the likelihood of recreational gamblers developing problem gambling behaviours.²

OP will adopt an **evidence-based approach** to the assessment and development of responsible gambling initiatives where the likelihood and magnitude of risk is clear and sound research or evidence is available. We will use the best available evidence (direct or indirect). However, clear

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² This is consistent with the ‘approach’ outlined in GCR’s *Enforcement Policy* (July 2004) section 4.1, p.9.
research and evidence in relation to either the level of risk, or the efficacy of particular interventions will not always be available.

Where research or evidence is lacking, uncertain or ambiguous, and there is a reasonable level of concern that reasonably significant and/or widespread harm may occur, the Gambling Act indicates that a precautionary approach should be adopted. The precautionary approach rejects the notion that risks are acceptable until harm has been proven, or, that risks can continue unmitigated until such time as the effectiveness of a harm minimisation measure is proven.

It is anticipated that over time, as research into the effectiveness of harm minimisation measures matures, OP will increasingly be able to adopt an evidence-based approach.

Clearly any decision to utilise a precautionary approach needs to be carefully considered. Without wishing to limit its application, OP may tend to adopt a precautionary approach under the following conditions or circumstances –

- There is a reasonable level of concern that an innovation or intervention may expose gamblers and/or others to reasonably significant and/or widespread harm. For example, since gaming machines are considered the most harmful form of gambling (i.e. they pose the most reasonably significant and/or widespread harm when measured against other forms of gambling), precautionary approaches are more likely to focus on matters related to gaming machines
- Research or other relevant evidence is unavailable, limited, uncertain, ambiguous or of poor quality.

A precautionary approach might also be appropriate for regulatory initiatives. For example, it might not be advisable to proceed with a regulatory initiative in cases where there is little evidence that it will reduce the potential for harm, and good reason to believe that it may be harmful.

It is also important to maintain checks on decision-making, for example –

- Proposed regulatory responses driven by a precautionary approach will be subject to sector and public scrutiny in accordance with the Act to ensure transparency. In fact where a precautionary approach is considered likely, we will initiate dialogue with affected parties sooner rather than later, in addition to any formal consultation required by the Act
- Regulatory interventions/decisions made by OP will be subject to monitoring, evaluation and review to the extent reasonable and possible

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3 There are several instances in the Act where the legislature has adopted a precautionary approach to gambling, for example, sections 3, 37(1), 52(1), 67(1) – (2).
4 The relative merits of an evidence-based approach vs. the precautionary approach are discussed in more detail in Appendix A attached to this document.
• Regulatory interventions/decisions made by OP may be varied or revoked as research continues to inform harm prevention, minimisation and responsible gambling measures.

Decision-making criteria together with the scrutiny of broad consultation in accordance with the Act and associated regulations should ensure the application of the principle is fair and not unnecessarily restrictive.

It is important to note that application of the precautionary approach is not a ‘default’ or ‘fallback’ position to be used in any instance where evidence is lacking. Before adopting a precautionary approach we must assure ourselves that –

1. Concerns about an increase in harm in a particular case are on reasonable grounds; and
2. The anticipated level of harm is reasonably significant and/or widespread.

The basis of our concern will be clearly communicated to those parties we intend to consult with. At this point the onus will be on the applicant to demonstrate either that the level of harm (or the potential for it) is not significant, or that any increase in harm can be appropriately ameliorated.

The decision-making criteria or questions are derived from relevant statutory provisions, the principles in the Act and associated regulations, administrative law, our grounds for approaching gambling and the principles of good regulation. They are intended to provide us with a series of questions that can be posed in relation to gambling harm issues, problems or initiatives raised by us or one of our stakeholders so that we critically consider the following –

• The most appropriate regulatory ‘tool/s’ or provisions under which OP should make its deliberations
• DIA assessed evidence/research
• The level and scope of harm
• To what extent an evidence-based or precautionary approach should be adopted
• Broad options generation and analysis.

The questions are not exhaustive, and neither are they necessarily linear. Rather they are designed to ensure that in relation to any particular issue, we cover all relevant questions, issues and considerations as far as harm prevention/minimisation and responsible gambling is concerned.

The application of evidence-based and/or precautionary approaches in the context of the following decision making criteria is represented in a matrix attached at Appendix B.
### Decision-making Criteria: Harm Prevention/Minimisation and Responsible Gambling

<table>
<thead>
<tr>
<th>Decision-making category</th>
<th>Evidence/Research</th>
</tr>
</thead>
</table>
| General                  | What DIA assessed evidence/research is available in relation to harm and/or interventions?  
|                          | Is it direct or indirect?  
|                          | In the absence of any direct evidence, is any related evidence or research of use?  
|                          | Are there synergies between this and other research that we can explore?  
|                          | Does the type of evidence available, together with a perceived level of harm indicate that we should take an evidence-based approach or a precautionary approach? |

<table>
<thead>
<tr>
<th>Decision-making category</th>
<th>Harm Assessment Questions</th>
<th>Interventions/Initiatives Questions</th>
</tr>
</thead>
</table>
| General                  | What is the locus of harm?  
|                          | Who might it effect, and when? (I.e. where is the harm located along the continuum of harm - regular gamblers, ‘recreational’ gamblers, family/whānau of gamblers, wider community, different population groups?).  
|                          | How serious is the harm?  
|                          | What might the unintended consequences be?  
|                          | Is there potential for a statutory requirement to be undermined?  
|                          | Does the harm have a differential effect on different population groups?  
|                          | Is it reasonable to consider that harm may occur or be increased?  
|                          | Is the level of harm reasonably significant and/or widespread?  
|                          | What might the unintended consequence be?  
|                          | Does the intervention/initiative raise broader issues of harm or the need for policy development that we have not considered?  
|                          | Example: What issues do free play vouchers raise in relation to responsible gambling, incentives and inducements?  
|                          | Does the intervention/initiative suggest that supporting interventions elsewhere are required?  
|                          | Example: Does the approval of new technology require supporting minimum standards and/or MOS, or consequential changes made to other controls?  
|                          | May the intervention/initiative have a differential impact on different population groups?  
|                          | Are there other measures that could be taken to support the initiative in order to prevent those at little risk from entering into greater risk?  
|                          | Example: Could the introduction of new exclusion provisions/requirements be supported by a broader publicity/public information campaign in collaborate with MOH?  
<p>|                          | Is it reasonable to consider that harm will be reduced? |</p>
<table>
<thead>
<tr>
<th>Decision-making category (contd)</th>
<th>Harm Assessment Questions (contd)</th>
<th>Interventions/Initiatives Questions (contd)</th>
</tr>
</thead>
</table>
| **Integrity**: Is it fair, lawful and honest? | Does it increase opportunities for casino gambling?  
*Example*: May additional wagering options on particular games increase the opportunity for casino gambling in a casino?  
Does it change the nature/odds of the game?  
*Example*: Does the use of continuous shufflers on all gaming tables affect the integrity of a game?  
May it facilitate cheating?  
*Example*: Does a reduction or change in camera coverage create ‘blind spots’? What might the impact be of reduced supervision levels? | Is it unduly restrictive on players or gambling providers?  
*Example*: When and where may it be appropriate to place restrictions on Eft-Pos availability?  
Is the integrity of the gambling activity preserved?  
Are the odds of winning fairly and correctly represented?  
*Example*: Signage requirements.  
Is opportunity for crime reduced?  
*Example*: How may FTRA requirements be appropriately captured? What level of scrutiny should be applied to cancel credits on gaming machines? |
| **Environment**: Does it facilitate a safe, secure environment? | What types of gambling are affected e.g. gaming machines, Table Games, promotions etc.  
Does it facilitate gambling that is extended, intensive and repetitive?  
*Example*: What are the possible implications of food and beverage service at gambling stations?  
Is it contrary to the principle of early intervention?  
*Example*: Do internal host responsibility guidelines discourage staff from approaching gamblers and providing information? | What type of gambling does the intervention target?  
Does it support breaks in play?  
*Example*: What are the possible implications of limiting Eft-Pos/alcohol/food access whilst people are gambling on gaming machines?  
Does it support staff willingness/capability to approach actual or potential problem gamblers and provide them with information?  
*Example*: Content/tone of Host Responsibility policies and training. |
<table>
<thead>
<tr>
<th>Decision-making category (contd)</th>
<th>Harm Assessment Questions (contd)</th>
<th>Interventions/Initiatives Questions (contd)</th>
</tr>
</thead>
</table>
| **Pressure to gamble**: Does it constitute a pressure or device designed to encourage gambling at levels that may cause harm? | Is it consistent with the ASA’s Code of Advertising Gaming and Gambling?  
**Example**: How are promotions conducted? What policies are there in relation to promotions and problem gamblers? How is ‘winning’ represented?  
May it encourage excessive amounts of time and/or money being played?  
**Example**: Do promotions or programmes reward longer play, excessive expenditure or greater turnover?  
May it limit breaks in play?  
**Example**: What is the possible impact of providing beverages and/or food to players whilst at gaming machines? | In what ways may it protect gamblers from spending excessive amounts of time and/or money on gambling?  
**Example**: What are the possible benefits/limitations of pre-commitment cards?  
Does it support breaks in play?  
**Example**: What financial policies might support breaks in play?  
Does it ensure problem gamblers/vulnerable populations are not targeted by marketing and advertising?  
**Example**: How aware of problem gambling and responsible gambling are marketing staff?  
How are excluded gamblers excluded from promotional activities? |
<table>
<thead>
<tr>
<th>Decision-making category (contd)</th>
<th>Harm Assessment Questions (contd)</th>
<th>Interventions/Initiatives Questions (contd)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informed participation:</td>
<td><a href="#">Does it facilitate informed participation and control?</a></td>
<td><a href="#">May it limit the information available to participants?</a></td>
</tr>
<tr>
<td>Does it facilitate informed participation and control?</td>
<td>May it limit the information available to participants? <strong>Example:</strong> In what way might the use of ‘systems’ support unrealistic beliefs about the odds of winning?</td>
<td>How does it support informed participation? <strong>Example:</strong> Are signs large enough? Are staff adequately trained to provide particular information? What particular information should they provide?</td>
</tr>
<tr>
<td></td>
<td>How legible is the signage?</td>
<td>How does it encourage players to assume control over their gambling behaviour? <strong>Example:</strong> What particular tools are available to gamblers so they can control their gambling? Are the tools accessible, easy to use? Do outer parameters need to be set by regulation? Should they be mandatory or voluntary?</td>
</tr>
<tr>
<td></td>
<td>May it discourage individuals from exercising control over their gambling behaviour? <strong>Example:</strong> What minimum standard/rules/MOS are required to ensure that gamblers have access to information and can control their gambling?</td>
<td></td>
</tr>
<tr>
<td>Policy Questions: Assessment of Interventions/Initiatives</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------</td>
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</tr>
<tr>
<td><strong>Proportionality:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the proposed intervention/initiative/decision proportional to the risk of harm?</td>
<td></td>
<td></td>
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<tr>
<td>Is the cost greater than the benefit?</td>
<td></td>
<td></td>
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<tr>
<td>What are the compliance/implementation costs and are they proportional to the level of risk posed?</td>
<td></td>
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<tr>
<td><strong>Accountability:</strong></td>
<td></td>
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<tr>
<td>Is it within our jurisdiction to consider this issue? Ought it be referred to the Gambling Commission?</td>
<td></td>
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<tr>
<td>Is the intervention/initiative/decision justified?</td>
<td></td>
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<tr>
<td>Who must we consult with? How must we consult and what is the scope of consultation?</td>
<td></td>
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<tr>
<td>Is there a less intrusive/simpler/more cost effective way of achieving the same outcome?</td>
<td></td>
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<tr>
<td><strong>Consistency:</strong></td>
<td></td>
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<tr>
<td>Is the proposed intervention/initiative/decision consistent with existing measures? If not, is there a justification for this variation that is consistent with the purposes of the Act?</td>
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<tr>
<td>Does it support other initiatives or unnecessarily duplicate them?</td>
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<tr>
<td><strong>Transparency:</strong></td>
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<tr>
<td>Is the intervention clearly defined?</td>
<td></td>
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<tr>
<td>Can we communicate it clearly to those we need to consult with?</td>
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<tr>
<td>Have we clearly outlined the reasons for our decision?</td>
<td></td>
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<tr>
<td>Have we given consultees sufficient information and time to respond?</td>
<td></td>
<td></td>
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<tr>
<td><strong>Targeting:</strong></td>
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<tr>
<td>Is the intervention/initiative/decision focused on the problem and a clear outcome?</td>
<td></td>
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<tr>
<td>What is the intervention designed to achieve/what problem is it fixing?</td>
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<tr>
<td>Do we agree that this is an appropriate thing to want to achieve, and that this intervention is the best way to achieve it?</td>
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</tr>
</tbody>
</table>

**Post-Decision**

Harm prevention/minimisation and responsible gambling initiatives approved or implemented by the Department will be monitored, evaluated and subject to review. Where research emerges that challenges the effectiveness of a solution, OP will utilise the mechanisms under the Act to vary or revoke the condition, rule or standard.
Where OP declines to approve an initiative or innovation from the industry, it will, undertake to review that decision once within a specified time period, or earlier if evidence becomes available indicating that a review is warranted. If, after the second review the initiative is declined again, OP is unlikely to review the matter again unless there is good reason to do so.

Such mechanisms ensure that the process for considering and implementing harm prevention, minimisation and responsible gambling measures is iterative, responsive to research and prevailing political and social drivers.
Appendix A

Discussion

1. An evidence-based or evidence-informed approach draws upon the best available research and data to inform decision-making. It requires a knowledge base to support strategic decision-making. An evidence-based approach is consistent with that proposed by the Ministry of Health (MoH) in its strategic plan for preventing and minimising gambling harm. However it is fair to observe that research into the epidemiology and treatment of problem gambling is more mature than research into the effectiveness of harm minimisation interventions. The former issue is clearly the province of MoH and it is therefore appropriate for it to assume an evidence-based approach since a knowledge base exists to support decision-making. The latter issue however is of most regulatory concern to OP.

2. Both OP and MoH acknowledge that currently there is a lack of research into the effectiveness of harm minimisation interventions within New Zealand populations. Whilst there is some useful international research to draw upon, this too is still in its infancy. In short, the current knowledge base regarding the effectiveness of harm prevention and minimisation interventions is limited. In this context, whilst an evidence-based approach is desirable, it is not always possible. Moreover, from a practical perspective, it will not always be desirable or possible for OP to defer regulatory decisions until such time as ‘evidence’ is available to support a particular intervention or technology. Under such circumstances another model of decision-making is required.

3. The precautionary approach is used in situations where –

   - There is scientific or technical uncertainty about the risk of harm which precludes a full assessment of risk; and
   - Regulators consider that society’s chosen level of protection may be compromised.5

Where the nature and probability of risks are known (i.e. there is a sound knowledge base), risk assessment principles and methods are generally sufficient to assess risk and guide decision-making. However where there is uncertainty about the nature and probability of risk or harm (i.e. the knowledge base is limited or ambiguous), such methods and principles are less useful.

4. The precautionary approach had its genesis in scientific and environmental debates beginning in the 1970s. In essence, the precautionary approach ‘recognises that the absence of full scientific certainty shall not be used as a reason for postponing decisions where there is a risk of serious or irreversible harm’. This qualification to the application of the precautionary approach is important. There must be a reasonable level of concern that reasonably significant and/or widespread harm will occur or be increased. It is not simply a default position to be adopted when evidence of harm is lacking. The precautionary approach ‘gives primacy in policy debates to those upon whom the risk of harm is imposed’. It contrasts with approaches that prioritise the rights of those who would impose risks on others.

5. The precautionary approach has traditionally been limited to areas of environmental, health and safety concerns, and seeks to prioritise the rights of at-risk persons. Indeed the level of risk required is that of ‘serious or irreversible harm’. However a number of groups and individuals have advocated the application of the precautionary principle to gambling. For example, the Australian Productivity Commission’s 1999 report, Australia’s Gambling Industries states –

‘Governments tend, for example, to ban or limit exposure to potentially dangerous drugs. In this instance, the onus or proof is on demonstrating the product’s safety, before it can be regarded as a normal good, rather than the onus of proof being to demonstrate that it is hazardous prior to measures seeking to control its availability. Arguably this precautionary approach is appropriate for some aspects of gambling too. The approach reflects the concern that consumption of certain products might have small benefits for many, but very large adverse consequences for some’.

It is worth noting that whilst MoH has adopted an evidence-based approach, it views the precautionary approach as an underlying principle of consideration since evidence may not always be complete or provide definitive answers to policy questions.

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# Appendix B

## Decision-making Matrix

### Internal decision making matrix: Application of evidence-based vs precautionary approach

<table>
<thead>
<tr>
<th>Decision-making category/potential locus of harm</th>
<th>Assessment of evidence and intervention</th>
<th>Policy filter</th>
<th>Risk Assessment</th>
<th>Issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrity of gambling</td>
<td>EVIDENCE CLEAR</td>
<td>Consult where relevant</td>
<td>Low risk</td>
<td>Low Risk</td>
</tr>
<tr>
<td>Game rules</td>
<td>Supervision levels</td>
<td>Marketing Risk</td>
<td>High risk</td>
<td>High Risk</td>
</tr>
<tr>
<td>Game enhancements/ controls</td>
<td>Game enhancements</td>
<td>Gamblers</td>
<td>EVIDENCE CLEAR</td>
<td>EVIDENCE CLEAR</td>
</tr>
<tr>
<td>Gambling environment</td>
<td>Pre-commitment</td>
<td>Risk Assessment</td>
<td>EVIDENCE CLEAR</td>
<td></td>
</tr>
<tr>
<td>Advertising</td>
<td>Risk Assessment</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical layout</td>
<td>Cash dispensing</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Training</td>
<td>Enhancements</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash dispensing</td>
<td>Policy</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Marketing</td>
<td>EVIDENCE CLEAR</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Inducements to gamble</td>
<td>Interventions</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loyalty schemes</td>
<td>Sales promotion</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Informed participation/ Control</td>
<td>Identify relevant, evidence-based interventions &amp; options</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other gambling issue</td>
<td>Confirm intervention consistent with policy best practice</td>
<td>EVIDENCE CLEAR</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Evidence based approach

- Proportional, Accountable, Consistent, Transparent, Targeted

### Precautionary Approach

- Consult relevant/affected bodies

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