

# **Regulatory Impact Statement**

## **Problem Gambling Levy Regulations for 2016/17 to 2018/19**

### **Agency Disclosure Statement**

#### **Roles of the Ministry of Health and Department of Internal Affairs**

The Ministry of Health and the Department of Internal Affairs have prepared this Regulatory Impact Statement on the problem gambling levy regulations for 2016/17 to 2018/19.

The Ministry is responsible for an integrated problem gambling strategy focused on public health. The Ministry's Strategy to Prevent and Minimise Gambling Harm is this integrated problem gambling strategy. The purpose of the problem gambling levy is to recover the cost of the Ministry's Strategy.

The Department is the primary regulator of the gambling sector, administers relevant legislation (including the problem gambling levy regulations) and is the Government's key policy advisor on gambling.

#### **Nature and extent of the analyses undertaken**

Information used in the analyses included:

- research on participation in, and the impacts of, various forms of gambling
- research into, and evaluations of, the effectiveness of aspects of the strategy
- problem gambling service user data
- data on levy under-recovery or over-recovery by sector
- data on player expenditure, and forecasts of future player expenditure
- the 2015 Needs Assessment included as one component of the Ministry's consultation document on the Strategy, an independent report supporting that needs assessment and previous similar reports
- submissions to the Ministry's consultation document
- independent advice prepared for the Gambling Commission, submissions made at its consultation meeting and its recommendations to the responsible Ministers.

A key limitation of the analyses is the difficulty accurately assessing the extent to which harm is properly attributable to each levy-paying gambling sector. Another key limitation is the difficulty forecasting player expenditure on different forms of gambling more than three years into the future.

The Gambling Act 2003 shapes the number and scope of the options analysed, because it:

- describes the integrated problem gambling strategy as 'focused on public health' [section 317]
- specifies four components that the strategy must include [section 317(2)(a) to (d)]
- details requirements for the process to develop the strategy and the problem gambling levy [section 318]

- states that the purpose of the levy is to recover the cost of ‘developing, managing and delivering’ the strategy [section 319(2)]
- includes a formula ‘to be used in estimating the proposed levy rates payable by gambling operators’ [section 320(2)].

### **No effects requiring a particularly strong case before regulation is considered**

The options analysed are unlikely to impair private property rights or significantly impair market competition or the incentives on businesses to innovate and invest, and they do not override fundamental common law principles.

Because the Act emphasises harm prevention and minimisation, player expenditure and help-seeking data assist in determining each sector’s levy liability. This means that a given sector’s levy liability can increase or decrease even if the amount of the levy does not change. Such changes in levy liability are typically relatively minor in the context of changes in sector profit.

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## Contents

Agency Disclosure Statement	i
Problem definition	1
Status quo	2
Key features of gambling in New Zealand	2
Existing interventions	6
Objectives	9
Immediate objectives	9
Strategic objectives	9
Regulatory impact analysis	11
Whether to allow the strategy and levy simply to expire	11
Ministry's appropriation for 2016/17 to 2018/19	12
The levy-paying gambling sectors	13
The weighting and the resulting levy rates	14
Consultation	20
Who has been consulted and the form of the consultation	20
Significant issues raised and changes as a result	21
Conclusions and Recommendations	23
Whether to allow the strategy and levy simply to expire	23
Ministry's appropriation for 2016/17 to 2018/19	23
The levy-paying gambling sectors	23
The weighting and the resulting levy rates	24
Implementation	25
Monitoring, Evaluation and Review	26
References	27
List of Tables	
Table 1: Ministry of Health Budget (GST exclusive), 2013/14 to 2015/16	8
Table 2: Share of expenditure and presentations by levy-paying sector, 2011/12 and 2014/15	16
Table 3: Share of budget, levy rate and expected levy amount by sector by weighting, 2016/17 to 2018/19; and at 10/90 in the current period (2013/14 to 2015/16)	17
Table 4: Under-recovery or over-recovery of levy, 2004/05 to 2015/16, by sector	18
Table 5: Proposed Ministry of Health Budget (GST exclusive), 2016/17 to 2018/19	23
Table 6: Recommended levy rate for each gambling sector, 2016/17 to 2018/19	24

## Problem definition

1. The Gambling Act 2003 (the Act) recognises that harm from gambling is a sizable issue, and section 317 of the Act sets out requirements for an 'integrated problem gambling strategy focused on public health' (the strategy). The Ministry of Health (the Ministry) is responsible for the strategy, which it refers to as its Strategy to Prevent and Minimise Gambling Harm.
2. Funding is appropriated to the Ministry for the strategy. A 'problem gambling levy' (the levy) is set by regulation at different rates on the profits of the main gambling sectors. The levy, which is collected by the Inland Revenue Department (IRD), is intended to reimburse to the Crown the amount of the Ministry's spending on the strategy. This ensures that the strategy is broadly fiscally neutral over time.
3. The current strategy and levy expire after 30 June 2016. After that date, the cost of any Ministry-funded services to prevent and minimise gambling harm will not be recovered from gambling operators unless and until a refreshed strategy and new levy regulations are put in place.
4. If a refreshed strategy and new levy regulations are to be put in place, the Government must make three key decisions:
  - the amount to be appropriated to the Ministry for its Strategy to Prevent and Minimise Gambling Harm for 2016/17 to 2018/19 (the total levy requirement is derived by adding a net under-recovery of levy in previous levy periods to the amount of the Ministry's appropriation)
  - which gambling sectors will pay the levy
  - what weighting between player expenditure and help-seeking to use in the Act's formula for calculating each sector's levy rate.

# Status quo

## Key features of gambling in New Zealand

5. The sections below summarise key features of the gambling environment in New Zealand. There is more detail in the Ministry's Strategy to Prevent and Minimise Gambling Harm for 2016/17 to 2018/19, and in Allen and Clarke (2015a), Ministry of Health (2015a) and section 1.1.1 of Ministry of Health (2015c). The references section at the end of this Regulatory Impact Statement sets out full citations for these documents.

## Participation in gambling

6. Most adults in New Zealand gamble at least occasionally. However, only a minority participate in any gambling activity other than buying New Zealand Lotteries Commission products or raffle tickets. For example, the 2012 National Gambling Study (NGS)<sup>1</sup> (Abbott et al 2014c) estimated that 62 percent of adults bought a Lotto ticket at least once in the previous year, but only:
  - 14 percent played a non-casino gaming machine (NCGM) at least once
  - 12 percent bet on a horse or dog race at least once
  - 8 percent played a casino gaming machine in New Zealand at least once
  - 5 percent bet on a sports event at least once
  - 4 percent played a casino table game in New Zealand at least once.
7. Differences among gambling activities are more pronounced when frequency of participation is considered. For example, the 2012 NGS estimated that 17 percent of adults bought a Lotto ticket at least once a week, but it also estimated that only 1.5 percent played an NCGM this frequently.
8. Gambling participation has fallen, and frequent participation in riskier forms of gambling has fallen markedly, since the 1990s. For example, the 1991 national survey (Abbott and Volberg 1991) estimated that 18 percent of adults participated at least once a week in continuous forms of gambling<sup>2</sup>, while the equivalent 2012 NGS estimate was 6 percent. As another example, the Department of Internal Affairs (DIA) 1990 participation and attitudes survey estimated that 5 percent of adults played an NCGM at least once a week, while the equivalent figure in the last such survey in 2005 was 3 percent (both surveys discussed in DIA 2008), and the 2012 NGS estimate was 1.5 percent. However, results from recent iterations of the New Zealand Health and Lifestyles Survey (HLS) suggest that these downward trends might have slowed or levelled off (Tu and Puthipiroj, in press).
9. The 2012 NGS also indicated that the percentage of adults participating in more than three different gambling activities at least once during the previous year (another risky gambling behaviour) has fallen since the 1990s. Once again, however, recent iterations of the HLS suggest that this downward trend might have slowed or levelled off.

<sup>1</sup> A national study of gambling participation, gambling harm, problem gambling and attitudes towards gambling, with one-year and two-year follow-up components focusing on the incidence of problems related to gambling.

<sup>2</sup> Continuous forms of gambling offer the opportunity for rapidly repeated cycles of risk, result, collect, and risk again. Examples of continuous forms of gambling include NCGMs, casino table games and betting on horse or dog races.

## **Expenditure on gambling**

10. Expenditure on gambling refers to the amount spent (lost) by participants. It is also each operator's gross profit from its gambling products.
11. Comparing gambling participation and expenditure information (and bearing in mind that most casino gambling expenditure relates to gaming machines), shows that most of the money spent gambling in New Zealand comes from the relatively limited number of people who play non-casino gaming machines or casino gaming machines, or both. This has been the case for more than a decade.
12. Most provisions of the Gambling Act 2003 came into force on 1 July 2004. DIA's figures indicate that total expenditure across the main gambling sectors increased rapidly from \$168 million in 1982/83, when there were only two main sectors (the Golden Kiwi and race betting) to \$2.039 billion in 2003/04, when there were four - non-casino gaming machines (NCGMs); casinos; the New Zealand Racing Board (NZRB); and the New Zealand Lotteries Commission (NZLC). After 2003/04, it levelled off. In real terms 2014/15 expenditure of \$2.091 billion was around half a billion dollars below the 2003/04 figure. However, there has been little variation in the annual figures in real terms since 2009/10.
13. Much of the growth over the past 25 years was attributable to spending on non-casino gaming machines, which were first licensed in 1988. NCGM spending rose every year, from \$107 million in 1990/91 (the first year for which figures are reported) to \$1.035 billion in 2003/04, when it accounted for more than half the annual total for the four main gambling sectors. Over the 10 years from 2004/05 to 2013/14, spending in the NCGM sector fell from \$1.027 billion to \$806 million, even without adjusting for inflation. However, spending on NCGMs increased slightly, to \$818 million, in 2014/15.
14. While NCGM spending has generally declined for more than a decade, there has been a substantial increase in spending on New Zealand Lotteries Commission products (primarily Lotto, Powerball, Strike, Keno, and Instant Kiwi). There have also been smaller, less consistent, increases in spending on casino gambling and the New Zealand Racing Board's betting products (betting on horse and dog races, and betting on sports events).

## **Harm from gambling**

15. Harm from gambling can include relationship breakdown, depression, suicide, reduced work productivity, job loss, bankruptcy, and various types of gambling-related crime (including family violence and crime committed to finance gambling). There are 'ripple effects'; that is, harms can and often do extend beyond gamblers to encompass family members (especially children), whānau, friends, employers, colleagues and whole communities. (Abbott et al 2014b; Delfabbro 2012; Productivity Commission 1999, 2010)
16. There is compelling evidence from New Zealand and international research that at-risk gambling is associated with higher levels of smoking, hazardous alcohol consumption, other drug use, and poorer self-rated health. There has been debate whether these types of problems tend to lead to, or tend to be a result of, at-risk gambling.
17. There are different ways to measure gambling harm. The Australian Productivity Commission (Productivity Commission 2010) has cautioned against a narrow focus on 'problem gamblers' (in the sense of people scoring above a certain threshold on a screening instrument), because:
  - there is substantial existing harm and risks of future harm among gamblers who would not be categorised as problem gamblers by screening instruments

- it can lead to an excessive focus on individual traits (such as prior mental health conditions) that may *sometimes* precipitate gambling problems
  - it largely ignores the harmful effects associated with *other people's* gambling.
18. All problem gamblers and most moderate-risk and low-risk gamblers are likely to experience some harm from their own gambling. Using the Problem Gambling Severity Index (PGSI), an internationally-recognised screening instrument, the 2012 NGS (Abbott et al 2014b) estimated that:
- 0.7 percent of adults in New Zealand (approximately 24,000 people) were current problem gamblers
  - 1.8 percent (60,000 people) were current moderate-risk gamblers
  - 5.0 percent (168,000 people) were current low-risk gamblers.
19. There are ways of estimating the prevalence of gambling harm that do not involve the use of problem gambling screening instruments. For example, the 2012 NGS asked respondents whether, in their wider family or household, someone had ever had to go without something they needed, or some bills weren't paid, because too much was spent on gambling *by another person*. It estimated (Abbott et al 2014b) that someone else's gambling had these harmful effects *at some time* in the wider families or households of around 430,000 adults. In about a third of these cases, someone else's gambling had these effects *in the previous year*. Similarly, the 2011/12 New Zealand Health Survey estimated that in the previous year, almost 90,000 adults had experienced problems because of someone else's gambling (Rossen 2015).
20. It is worth noting that none of the numbers cited above include the number of children who are experiencing harm as a result of their own or someone else's gambling. The Ministry has invested in studies exploring this issue for young people and is currently investing in several studies that focus on children.
21. It is difficult to assess the extent to which different forms of gambling are associated with harm, given that many people participate in more than one form, given the wide ranges in types and severity of harm, and given the co-morbidities that are often associated with gambling harm. Even so, there is compelling evidence that 'continuous' forms of gambling (particularly gaming machines) are much more likely than 'non-continuous' forms to be associated with harm to gamblers and those around them. For example, the Australian Productivity Commission concluded after two inquiries a decade apart that people playing gaming machines face much greater risks than people who participate in other gambling activities, and that the likelihood of harm rises steeply with the frequency of gaming machine gambling and gaming machine expenditure levels (Productivity Commission 1999, 2010).
22. The New Zealand research suggests that NCGMs alone are associated with around 45% to 57% of gambling harm. When expressed in terms of the harm that is associated with the current levy-paying sectors, this is broadly the equivalent of a range from 40% to 65%. The wide range is largely a result of differences in study design, in the type of harm considered, and in the questions asked (particularly, whether respondents had the option of nominating more than one form of gambling as associated with harm). Most of the recent findings suggest the figures are between 54% and 60%. At the other end of the spectrum, the research suggests that New Zealand Lotteries Commission products are associated with around 2% to 16% of the harm that is attributable to the current levy-paying sectors, with most of the recent findings suggesting figures below 10%.

23. In New Zealand betting on racing or sports and casino table games are also more likely than other forms of gambling to be associated with harm. For example, the 2014 New Zealand Health and Lifestyles Survey (Tu and Puthipiroj, in press) asked respondents whether in the previous year in their wider family or household there had been some argument about time or money spent on betting or gambling, and/or someone had to go without something they needed or some bills weren't paid because too much was spent on gambling by someone else. NCGMs were the form of gambling *most often involved* for 49.9% of those who had experienced such 'household harm'. In terms of *attributions to the four current levy-paying sectors*, this is around 59.6%. The figures were around 10% for casino table games, 9.8% for casino machines, 17.7% for the New Zealand Racing Board's betting products, and 2.9% for New Zealand Lotteries Commission products.
24. There continues to be compelling evidence that Māori and Pacific people are more likely to suffer gambling harm from their own or someone else's gambling. Some subgroups of the Asian population also seem to be more likely to suffer gambling harm. People living in more deprived areas are also more vulnerable. (Abbott et al 2014b; Allen and Clarke 2015a; Rossen 2015; Sobrun-Maharaj, Rossen and Wong 2013)
25. The research findings (for example, Abbott et al 2014b and 2014c; Rossen 2015) and data from Ministry-funded gambling intervention services suggest that there are now far fewer significant differences between men and women in terms of gambling participation, the prevalence of problem gambling, the prevalence of gambling harm, the risk of gambling harm and help-seeking. However, women still make up most of those who seek help for problems associated with someone else's gambling, and it is likely that there are still some differences in gambling participation and harm by gender within different forms of gambling, and by gender within particular ethnic groups. For example, Māori women may be more at risk than women in other ethnic groups, and may now be more at risk than men, of harm associated with NCGMs.
26. It is clear that early exposure to gambling increases the risk of developing gambling problems (for example, Abbott and Volberg 2000). One Australian study also concluded that children living with a parent or caregiver who has a serious gambling problem experience 'pervasive loss', encompassing both physical and existential aspects of the child's life (Darbyshire et al 2001), and the situation for children in New Zealand seems to be similar (see for example, Watson and Watson 2004).
27. As far as young people are concerned, some overseas studies have concluded that young people are more likely than adults to be problem gamblers. However, this does not appear to be the case in New Zealand (Rossen et al 2013). Even so, vulnerability to gambling harm among young people in New Zealand appears to exhibit patterns that are similar to the patterns among adults.
28. In Youth'12, the third national health and wellbeing survey of secondary school students, students who were male, Māori, Pacific or Asian, and students who lived in higher deprivation or urban neighbourhoods were more likely than their counterparts to report indicators that their own gambling was unhealthy (Rossen et al 2013). Students who lived in higher deprivation or urban neighbourhoods were more likely than their counterparts to report indicators of harm as a result of family members' gambling.
29. Some overseas studies have found a growing issue with at-risk gambling among older adults, possibly related to the marketing of gambling venues as a forum for social interaction. However, there has been little or no evidence of this issue in New Zealand to date. Even so, the aging of the New Zealand population suggests a need to monitor and be responsive to the needs of this population segment.



30. Spending in high-deprivation areas on NCGMs, and possibly on other forms of gambling, is disproportionately high (Allen and Clarke 2015a).

## **Help-seeking**

31. From 2009/10 to 2014/15, the total number of people helped each year by Ministry-funded gambling intervention services varied between 11,800 and 13,300 (including brief screening interventions in non-clinical settings). Excluding brief interventions, the 2014/15 figure was over 7,200, more than double the equivalent figure in 2004/05, and around 6,500 of these presentations were attributed to the four current levy-paying sectors.
32. Excluding brief interventions, in 2014/15 the total number of clients was the highest since the Ministry assumed responsibility for problem gambling services on 1 July 2004, as were the total numbers of new clients and gambler clients. The total number of existing clients was higher only in 2012/13 and 2013/14, and the total number of family/affected other clients was higher only in 2013/14.
33. Excluding brief interventions, Māori made up 30.0 percent of clients, Pacific peoples 22.1 percent and East Asian 6.6 percent. Since 2004/05, the figure for Māori has ranged between 26.9 percent and 36.0 percent. By contrast, the 2012/13, 2013/14 and 2014/15 figures for Pacific peoples, which were all over 22 percent, were the highest since the Ministry assumed responsibility for these services. Until 2012/13, the highest previous figure had been 13.7 percent, in 2011/12. The high level of service use by Māori has always been encouraging; the recent substantial increase in uptake of services by Pacific peoples is also encouraging.
34. At 51.7 percent, NCGMs continued to be the primary mode of problem gambling most often cited by new gambler clients in 2014/15. Other forms of gambling that featured prominently were casino gaming machines (11.2 percent); casino table games (10.2 percent); betting on horse or dog races (6.2 percent); New Zealand Lotteries Commission products (8.6 percent); and sports betting (3.8 percent). Miscellaneous other forms of gambling made up the balance. As percentages of new gambler presentations attributed to the four current levy-paying sectors, the figures were:
- NCGMs 56.3%
  - casinos 23.3%
  - New Zealand Racing Board betting products 10.9%
  - New Zealand Lotteries Commission products 9.4%.

## **Existing interventions**

### **Legislative interventions**

35. One objective of the Gambling Act 2003 (the Act) is 'to prevent and minimise harm from gambling, including problem gambling' [section 3(b)]. In the Act, '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) by the person's spouse, civil union partner, de facto partner, family, whānau, or wider community; or
  - (iii) in the workplace; or
  - (iv) by society at large. [Section 4(1)]
- 36. The Act includes a wide variety of regulatory provisions intended to help achieve this objective. For example, the Secretary for Internal Affairs is instructed to refuse an application for a non-casino gaming machine venue licence unless satisfied that (among other things) the risk of problem gambling at the venue is minimised. [section 67(1)(p)].
- 37. In addition to these regulatory provisions, part 4 of the Act, subpart 4, sets out the provisions that are relevant to this Regulatory Impact Statement.
- 38. Section 317 in that subpart sets out the requirements for an 'integrated problem gambling strategy focused on public health' (the strategy). The Ministry is responsible for developing and implementing this strategy, which it refers to as its Strategy to Prevent and Minimise Gambling Harm. Section 317 states that the strategy must include:
  - measures to promote public health by preventing and minimising harm from gambling
  - services to treat and assist problem gamblers and their families and whānau
  - independent scientific research associated with gambling, including (for example) longitudinal research on the social and economic impacts of gambling, particularly the impacts on different cultural groups
  - evaluation.
- 39. Section 318 details requirements for a multi-stage process to develop the strategy. Section 319 relates to a 'problem gambling levy' (the levy), that is set by regulation at a different rate for each of the main gambling sectors. The Crown recovers the cost of the strategy by way of the levy, which means that the strategy is broadly fiscally neutral over time. There is a formula in section 320 that is used to calculate the levy rate to be paid by each group of gambling operators.
- 40. These provisions shape the number and scope of the options analysed, because they:
  - describe the strategy as 'focused on public health' [section 317]
  - specify four components that the strategy must include [section 317(2)(a) to (d)]
  - detail requirements for the process to develop the strategy and levy rates [section 318]
  - state that the purpose of the levy is to recover the cost of 'developing, managing and delivering' the strategy [section 319(2)]
  - include a formula 'to be used in estimating the proposed levy rates payable by gambling operators' [section 320(2)].
- 41. Because the Act emphasises harm prevention and minimisation, help-seeking and expenditure data assist in determining levy liabilities. This means that a sector's liability can change even if the amount of the levy does not. Such changes in levy liability are typically relatively minor in the context of changes in sector profit.

## The current strategy

42. In April 2010, Cabinet approved the Ministry's six-year strategic plan to 30 June 2016 (Ministry of Health 2010). In April 2013, it approved a three-year service plan for the period from 1 July 2013 to 30 June 2016 (Ministry of Health 2013). These documents were developed following a consultation process that met the requirements in the Act.
43. On 1 July 2013, the Gambling (Problem Gambling Levy) Regulations 2013 came into effect. They were intended to recover from gambling operators the funding appropriated to the Ministry for the period to 30 June 2016, minus a forecast small net over-collection in the previous levy period.
44. Table 1 shows the funding appropriated to the Ministry for 2013/14 to 2015/16, broken down by the forecast spending on each service line.

**Table 1: Ministry of Health Budget (GST exclusive), 2013/14 to 2015/16**

Services	2013/14 (\$m)	2014/15 (\$m)	2015/16 (\$m)	Total (\$m)
Public health services	6.779	6.858	6.835	20.472
Intervention services	8.330	8.550	8.420	25.300
Research and evaluation	2.630	2.125	1.875	6.630
Ministry operating costs	0.957	0.979	1.001	2.937
<b>Total (\$)</b>	<b>18.696</b>	<b>18.512</b>	<b>18.131</b>	<b>55.339</b>

45. Outputs purchased with this funding include:
  - primary prevention services – a variety of activities in the community to reduce gambling harm
  - a gambling harm awareness and education programme coordinated by the Health Promotion Agency
  - psychosocial intervention and support services
  - a 24-hour seven-day-a-week Gambling Helpline (which was incorporated towards the end of the period into the national telehealth service)
  - an Asian Gambling Hotline
  - public health and intervention workforce development and training
  - audits of public health and intervention services
  - data collection and reporting
  - a research and evaluation programme following an agenda for the 2010/11 to 2015/16 six-year period that was developed after extensive stakeholder consultation
  - the Ministry's operating costs.
46. The services purchased by the Ministry in the period to 30 June 2016 incorporate all the elements that the Act requires of the integrated problem gambling strategy focused on public health. Dedicated Māori, Pacific and Asian services are provided to ensure appropriate access and services for these vulnerable population groups.

# Objectives

## Immediate objectives

47. One immediate objective of the proposals that are the subject of this Regulatory Impact Statement is to determine whether to refresh the Strategy to Prevent and Minimise Gambling Harm and put in place a new levy for 2016/17 to 2018/19. If there is to be a refreshed Strategy and a new levy, other immediate objectives are to decide :
- the amount to be appropriated to the Ministry for its Strategy
  - which gambling sectors will pay the levy
  - the weighting between help-seeking and expenditure to use in the Act's formula for calculating each sector's levy rate.

## Strategic objectives

48. If the costs of the Strategy to Prevent and Minimise Gambling Harm for 2016/17 to 2018/19 are to be recovered by way of the levy, the Strategy must include all the elements that the Act requires of the integrated problem gambling strategy focused on public health. The proposed Strategy is founded on those elements, and refines and builds on the Ministry's two previous six-year strategic plans and four previous three-year service plans.
49. The Ministry is committed to a long-term approach that has not significantly changed since its first six-year strategic plan was developed in 2004. The overall goal of that approach is:
- Government, the gambling sector, communities and families/whānau working together to prevent and minimise gambling harm, and to reduce related health inequities.
50. A number of key principles underpinned the six-year strategic plan (for 2010/11 to 2015/16) that Cabinet approved in 2010. Substantially the same principles guided the development of the proposed Strategy to Prevent and Minimise Gambling Harm for 2016/17 to 2018/19. The principles are:
- to achieve health equity
  - to maintain a comprehensive range of public health services based on the World Health Organization's Ottawa Charter for Health Promotion and New Zealand models of health (particularly Māori models, such as Te Pae Mahutonga and Te Whare Tapa Whā)
  - to fund services that prevent and minimise gambling harm for priority populations
  - to ensure culturally accessible and responsive services
  - to ensure links between public health and intervention services
  - to maintain a focus on healthy futures for Māori
  - to maintain a focus on improving health outcomes for Pacific peoples
  - to ensure services are evidence-based, effective and sustainable
  - to develop the workforce
  - to apply an intersectoral approach
  - to strengthen communities.

51. The proposed Strategy for 2016/17 to 2018/19 incorporates 11 objectives, which again are substantially unchanged from the objectives identified in the six-year strategic plan that Cabinet approved in 2010:
- Objective 1: There is a reduction in gambling-harm-related inequities (particularly in the inequities experienced by Māori and Pacific peoples and some segments of the Asian population, as the groups that are most vulnerable to gambling harm).
  - Objective 2: Māori have healthier futures, through the prevention and minimisation of gambling harm.
  - Objective 3: People participate in decision-making about activities that prevent and minimise gambling harm in their communities.
  - Objective 4: Healthy policy at the national, regional and local level prevents and minimises gambling harm.
  - Objective 5: Government, the gambling sector, communities, families/whānau and individuals understand and acknowledge the range of gambling harms that affect individuals, families/whānau and communities.
  - Objective 6: A skilled workforce is developed to deliver effective services to prevent and minimise gambling harm.
  - Objective 7: People have the life skills and the resilience to make healthy choices that prevent and minimise gambling harm.
  - Objective 8: Gambling environments are designed to prevent and minimise gambling harm.
  - Objective 9: Services to prevent and minimise gambling harm effectively raise awareness about the range of gambling harms that affect individuals, families/whānau and communities.
  - Objective 10: Accessible, responsive and effective interventions are developed and maintained.
  - Objective 11: A programme of research and evaluation establishes an evidence base that underpins all activities to prevent and minimise gambling harm.
52. An additional objective is to ensure that the amount appropriated to the Ministry is consistent with the requirement for restraint and prudence in public sector spending.

# Regulatory impact analysis

## Whether to allow the strategy and levy simply to expire

53. Various provisions in the Act make it clear that there should be a strategy, the costs of which are recovered by way of the levy, and that the strategy should be refreshed and a new levy put in place at least every three years. As a result, to simply allow the current strategy and levy to expire without a fresh strategy and new levy being put in place could be considered inconsistent with the intent of the Act.
54. If a fresh strategy and new problem gambling levy regulations are not in place on 1 July 2016, then
- either the Ministry will have to curtail the services to prevent and minimise gambling harm that it currently funds
  - or the Ministry will continue purchasing some services from its baseline for problem gambling services, but gambling operators will not be required to reimburse the Crown for the Ministry's costs or the costs of the services the Ministry purchases, until a fresh strategy and new problem gambling levy regulations are put in place.
55. The best recent research indicated that 0.7 percent of adults in New Zealand (approximately 24,000 people) are problem gamblers a further 1.8 percent (60,000 people) are moderate-risk gamblers, and another 5.0 percent (168,000 people) are low-risk gamblers. All problem gamblers and most moderate-risk and low-risk gamblers are likely to be experiencing at least some harm from their own gambling. Other good recent research indicated that, in the previous twelve months, around 90,000 adults experienced problems as a result of someone else's gambling. None of these figures include children who are experiencing harm as a result of their own or someone else's gambling.
56. Ministry-funded gambling intervention services have helped around 12,000 to 13,000 people in each year of the past six years. Many of these people were in crisis. If the Ministry ceased or reduced its funding for the intervention services, these people might find it very difficult to get the help they need.
57. The negative impacts of reducing or ceasing funding for public health or intervention services to prevent and minimise gambling-related harm are likely to be greater for groups already disproportionately affected by gambling harm, such as Māori, Pacific peoples, people living in high-deprivation areas, and some segments of the Asian population.
58. Reducing or ceasing funding is also likely to lead to increased pressure on the health, social welfare and criminal justice sectors.
59. Without a research and evaluation programme, it will not be possible to answer significant questions about the nature and prevalence of gambling harm, and about the effectiveness of the current mix of services.
60. If funding is reduced or ceases, there are likely to be job losses and service closures, including job losses in and possible closures of gambling research institutions.
61. If there were no strategy, gambling operators would retain around \$18.5 million annually that they are currently required to pay in levy. This would mean that:
- the non-casino gaming machine sector would have around \$11 million more available each year for allocation to community purposes

- the casinos would have around \$4 million more in profits each year
  - the New Zealand Racing Board would have around \$2 million more available each year for distribution to the racing industry
  - the New Zealand Lotteries Commission could pay around \$1 million more to the Lottery Grants Board each year for allocation to community purposes.
62. These amounts total less than 1% of annual gambling operator gross profit. The Australian Productivity Commission recently concluded that the significant social cost of problem gambling means that even harm minimisation measures with modest efficacy may generate net benefits as long as they do not also inadvertently generate excessive costs for industry or gamblers generally (Productivity Commission 2010).
63. For all these reasons, the option of allowing the current strategy and levy to expire without replacing them is not recommended.
64. On the assumption that there will be a refreshed strategy and a new levy for the 1 July 2016 to 30 June 2019 period, this Regulatory Impact Analysis focuses on the three decisions that the Government must make:
- the amount to be appropriated to the Ministry for its Strategy
  - which gambling sectors will pay the levy
  - the weighting between help-seeking and expenditure to use in the Act's formula for calculating each sector's levy rate.

## **Ministry's appropriation for 2016/17 to 2018/19**

65. The Ministry's proposed Strategy to Prevent and Minimise Gambling Harm for 2016/17 to 2018/19 would require an appropriation of \$55.339 million (GST exclusive). This amount is the same as the appropriation approved for the current (2013/14 to 2015/16) period, less than its appropriation in each of the previous two levy periods, and less in real terms than its appropriation of around \$50 million for the first levy period, 2004/05 to 2006/07.
66. Taking into account a forecast under-collection of \$0.863 million over the four periods to 30 June 2016, the total levy requirement for 2016/17 to 2018/19 would be \$56.202 million.

## **Monitoring and evaluating services and the effectiveness of the Strategy**

67. The Ministry monitors and evaluates the services it purchases and the effectiveness of its Strategy to Prevent and Minimise Gambling Harm largely in two ways:
- through a research and evaluation programme, including evaluations of both public health and intervention service delivery, the national gambling study, clinical trials of telephone and face-to-face interventions, longitudinal studies, and an outcomes monitoring and reporting project
  - through its standard contract management processes, including monthly data collection, six-monthly reporting, routine audits, and verification visits.

## **Other feasible options for the Ministry's appropriation**

68. The Act sets out the process to develop an integrated problem gambling strategy focused on public health, and specifies four elements that this strategy must include. The Ministry has developed its proposed Strategy to Prevent and Minimise Gambling Harm for 2016/17 to 2018/19 by following the required process. The Ministry's proposed Strategy includes the specified minimum content. The costings for the three-year service plan component of the proposed Strategy determine the proposed appropriation, and the total levy requirement is calculated from that proposed appropriation.
69. The proposed Strategy is a refinement of the 2010/11 to 2015/16 six year strategic plan that Cabinet approved in 2010 and the three-year service plan that Cabinet approved in 2013. The 2015 Needs Assessment developed to support the Ministry's consultation on its Strategy suggests the needs are largely unchanged.
70. The proposed appropriation is the same as the amount appropriated for the current levy period and lower than the amounts appropriated for the previous two levy periods. It is lower in real terms than the amount appropriated for the first levy period a decade ago.
71. Given these points, the Ministry considers that there are no feasible options to reduce the appropriation significantly from the \$55.339 million (GST exclusive) amount proposed. There might be options that involve a significant increase. However, the Ministry is confident it can deliver the necessary services, within the proposed appropriation.

## **Gambling Commission's independent advice**

72. After the Ministry completed its consultation process and revised its initial proposals, the Gambling Commission (the Commission) convened a meeting to consult key stakeholders on the proposals, as required by the Act. It also engaged a company to provide it with expert advice, as the Act anticipates it might choose to do.
73. In its independent advice to responsible Ministers, the Commission endorsed several aspects of the Ministry's proposed Strategy, said that the proposed budget for Ministry operating costs appeared reasonable, and endorsed the amount the Ministry sought as its appropriation. It noted the advice of its independent consultants that, in real terms, the proposed appropriation represented a reduction of 11% over the previous six years. It also noted that its consultant queried the extent to which these cuts could be absorbed beyond the 2016/17 to 2018/19 period while maintaining the same service levels, especially given recent increases in gambling expenditure and help-seeking (Gambling Commission 2015).

## **The levy-paying gambling sectors**

74. When it was first set in 2004, the levy applied to four gambling sectors: non-casino gaming machine (NCGM) operators, casinos, the New Zealand Racing Board (in respect of its betting products), and the New Zealand Lotteries Commission. However, the Act also anticipates that these sectors might change from time to time. [Sections 319(3)(a)]
75. There have been suggestions for some years that club NCGMs should pay a separate levy rate that is lower than the rate for non-club NCGMs. In 2012, the New Zealand Racing Board suggested that its NCGMs should also pay a lower rate. This issue was discussed in the course of the 2012 consultation process. For a variety of reasons, the decision was made not to change the levy-paying gambling sectors. Subsequent litigation challenging the process to arrive at this decision was unsuccessful.



76. The Ministry discussed this issue again, in detail, in its 2015 consultation document. It concluded that, on balance, the available evidence does not support the club proposal. It said that it was not aware of any evidence in support of the New Zealand Racing Board proposal. It also noted that if club NCGMs were a separate sector, applying the Act's formula for calculating the levy rates would mean that club NCGMs would actually pay a higher levy rate than non-club NCGMs. It referred to the significant time and costs involved in implementing a separate levy rate. None of the submissions seriously challenged these points.
77. The preferred option is that the levy-paying sectors remain the same. This means that clubs and the New Zealand Racing Board would pay the same levy rate for spending on their machines as operators of machines in pubs. It is worth noting that even without splitting the NCGM sector, non-club NCGMs will pay around seven times as much as club NCGMs. This is because gamblers spend around seven times more on non-club NCGMs and the levy rates, including the NCGM levy rate, are percentages of expenditure.

### **Gambling Commission's independent advice**

78. The Gambling Commission agreed with the Ministry that there is no compelling reason to split the NCGM sector. It also discussed help-seeking that is attributable to sectors other than the four current levy-paying sectors. It noted that while this category makes up about 10% of help-seeking, the category consists of multiple small sectors rather than one easily-levied sector. As a result, the Gambling Commission confined its levy recommendations to the four existing levy-paying sectors.

### **The weighting and the resulting levy rates**

79. The levy formula in section 320 of the Act helps calculate the approximate amount each levy-paying gambling sector is expected to pay towards the total levy requirement, and the levy rate necessary for each sector to raise its expected contribution. The formula is:

$$\text{Levy rate} = \frac{((A \times W_1) + (B \times W_2)) \times C}{D} \text{ plus or minus } R$$

where:

**A** = estimated current player expenditure in a sector, divided by the total estimated current player expenditure in all sectors subject to the levy

**B** = the number of customer presentations to problem gambling services that can be attributed to gambling in a sector, divided by the total number of customer presentations to problem gambling services in which a sector that is subject to the levy can be identified

**C** = the funding requirement for the period for which the levy is payable

**D** = forecast player expenditure in a sector for the period during which the levy is payable

**R** = estimated under-recovery or over-recovery of levy from a sector in previous levy periods

**W<sub>1</sub>** and **W<sub>2</sub>** are weights, the sum of which is 1.

80. The variable **R** was added to the formula by the Gambling Amendment Act 2015, which came into effect on 3 March 2015.

81. The top line of the formula as a whole determines the approximate dollar amount each sector will be expected to pay towards the total levy requirement, taking into account any under-recovery or over-recovery of levy from that sector in previous levy periods.
82. The bottom line of the formula (**D**) determines *the levy rate* that is thought to be necessary for a sector to contribute *the dollar amount* calculated by the top line of the formula. All other things being equal, the higher the forecast player expenditure for a sector over the course of the levy period (**D**), the lower that sector's levy rate. A levy rate is the amount per dollar of expenditure (player losses) over the course of a levy period that a sector must pay. For example, a rate of 1.30% means a sector must pay 1.3 cents in levy out of every dollar players spend in that sector over the three-year levy period.
83. The  $(\mathbf{A} \times \mathbf{W}_1) + (\mathbf{B} \times \mathbf{W}_2)$  component in the top line of the formula determines the share of the funding requirement (**C**) (that is, it determines the share of the budget for the strategy for a given levy period) that each sector is required to pay. When a sector's share of player expenditure (**A**) is substantially different from its share of presentations (**B**), **W<sub>1</sub>** and **W<sub>2</sub>**, the weighting between expenditure and presentations, is critical to determining the share of the budget that sector will be expected to pay.
84. The strategy is an integrated problem gambling strategy focused on public health. It is intended to help achieve the objective set out in section 3(b) of the Act. That is, it is intended both to prevent and to minimise any kind of harm or distress from gambling. Sections 319(2) and 320(1) say that the purpose of the levy is to recover the cost of developing, managing and implementing the strategy, and that the formula is a mechanism to allocate that cost among gambling operators and to collect it from them.
85. These objectives of the strategy, the levy and the levy formula do not require the inclusion of a weighting in the formula. Each sector's share of the budget could, for example, simply be the same as its share of the presentations attributed to the levy-paying sectors. Alternatively, each sector's share of the budget could simply be the same as its share of all expenditure attributed to the levy-paying sectors.
86. The weighting approach allows responsible Ministers to apportion the costs of the strategy to the levy-paying sectors in a way that they consider to be fairer than the apportionment that would result if they had to rely on either presentations alone or expenditure alone. The weighting selected is a matter of judgment; there is no scientifically 'correct' answer.
87. There are two key limitations of the weighting approach. There will almost certainly be no one weighting that results in all levy-paying sectors paying the amounts that responsible Ministers consider to be their fairest shares of the strategy's costs. Further, there may at times be no weighting that will result in a particular sector paying the share of the strategy's costs that responsible Ministers consider to be its fairest share.
88. There are several potential issues with a very high weighting on presentations.
  - a. The definition of 'harm' in the Act is broad. Those who seek help are only a small proportion of those who experience harm, and they tend to be at the acute end of the continuum. Gambling sectors may not be associated with all forms of harm in the same proportions as they are associated with presentations to intervention services.
  - b. In addition to intervention services, the strategy must include measures to promote public health by preventing and minimising the harm from gambling, gambling research (not just *problem* gambling research) and evaluation. A sector's share of presentations may not necessarily be a fair share for that sector to bear of public health, research and evaluation costs.

- c. A sector's share of the presentations that are attributable to levy-paying sectors may not necessarily be a fair share for that sector to bear of any costs that result from gambling in sectors that are not subject to the levy (gambling on overseas-based websites, for example).
  - d. As the Gambling Commission noted in its 2009 report,<sup>3</sup> a very high weighting on presentations might mean that 'diligent host responsibility in detecting problem gambling and encouraging the seeking of assistance is punished not rewarded'.
89. Conversely, even a weighting of 50% on expenditure could be seen as unfairly penalising any form of gambling that is less harmful than its share of expenditure would suggest, and as unfairly benefiting any form of gambling that is more harmful than its share of expenditure would suggest. The strategy is intended to prevent and minimise gambling *harm*; it is not intended to address the amount spent on gambling *per se*. If there were no harm from gambling, there would be no need for a strategy.
90. As a result of these considerations, there seems to be widespread agreement that presentations, as one indicator of harm, albeit harm at the acute end of the continuum, should be allocated a substantially heavier weighting than expenditure.
91. Table 2 sets out each sector's percentage of total player expenditure across the four levy-paying sectors, and each sector's percentage of the presentations attributed to the levy-paying sectors, in 2011/12, when the current levy was being developed, and in 2014/15, when the proposed levy for 2016/17 to 2018/19 was being developed.

**Table 2: Share of expenditure and presentations by levy-paying sector, 2011/12 and 2014/15**

	NCGMs		Casinos		NZRB		NZLC	
	Exp.	Pres.	Exp.	Pres.	Exp.	Pres.	Exp.	Pres.
<b>2011/12</b>	42.2%	64.1%	23.9%	20.5%	14.0%	9.5%	19.9%	5.9%
<b>2014/15</b>	39.7%	56.7%	25.8%	22.4%	15.7%	11.3%	18.9%	9.6%

92. Table 2 shows that a high weighting on expenditure means that the New Zealand Lotteries Commission, and to some extent the New Zealand Racing Board, will pay a higher share of the budget (because their percentages of expenditure are higher than their percentages of presentations). By contrast, a high weighting on presentations means that NCGMs will pay a higher share (because in 2014/15 around 57% of presentations were attributed to NCGMs, but NCGM spending was only 40% of expenditure in the levy-paying sectors). The weighting chosen makes a limited difference to the casino share (because that sector's percentage of expenditure is close to its percentage of presentations).
93. Table 2 also shows that in three years from 2011/12 to 2014/15, there were limited changes in sectors' percentages of expenditure but more substantial changes in their percentages of presentations. The percentage of presentations attributed to NCGMs reduced by more than seven percentage points, representing an 11.5% reduction. By contrast, the presentations attributed to casinos increased by 9.3%, New Zealand Racing Board presentations increased by 18.9%, and New Zealand Lotteries Commission presentations increased by 62.7%.

<sup>3</sup> [www.gamblingcommission.govt.nz/GCwebsite.nsf/wpg\\_URL/Reports-Publications-Proposed-Problem-Gambling-Levy-\(November-2009\)!OpenDocument](http://www.gamblingcommission.govt.nz/GCwebsite.nsf/wpg_URL/Reports-Publications-Proposed-Problem-Gambling-Levy-(November-2009)!OpenDocument) (accessed 17 June 2015).

94. The four weighting options for 2016/17 to 2018/19 discussed in the Ministry's consultation document were a 5% weighting on expenditure and a 95% weighting on presentations (referred to as a 5/95 weighting); 10/90; 20/80; and 30/70. The Ministry invited submissions on whether there were any realistic pairs of weightings other than the four discussed, and asked which pair, if any, submitters supported.
95. Table 3 shows the share of the budget that each levy-paying sector would be required to pay, and the levy rate for each sector, in 2016/17 to 2018/19 under each of the four alternative weightings. It also shows the amount that each sector would be expected to pay in levy over the three-year period at the levy rate implied by each of the weightings (assuming that the Ministry's appropriation is \$55.339 million and the total levy requirement is \$56.202 million, and assuming that expenditure in each sector exactly matches the total amount forecast for the three-year period). Finally, for the purposes of comparison, the table shows the share of the budget that each sector was required to pay, the levy rate for each sector and the amount that each sector was expected to pay in levy at the 10/90 weighting in the current period (2013/14 to 2015/16).

**Table 3: Share of budget, levy rate and expected levy amount by sector by weighting, 2016/17 to 2018/19; and at 10/90 in the current period (2013/14 to 2015/16)**

Weighting		2016/17 to 2018/19 share of budget, levy rate and expected levy amount, under four alternative weightings			
		Non-casino gaming machines	Casinos	New Zealand Racing Board	New Zealand Lotteries Commission
5/95	Share of budget	55.9%	22.5%	11.5%	10.1%
	Levy rate	1.32%	0.87%	0.50%	0.38%
	Expected amount	\$32.170m	\$14.058m	\$4.950m	\$4.884m
10/90	Share of budget	55.0%	22.7%	11.7%	10.6%
	Levy rate	1.30%	0.87%	0.52%	0.40%
	Expected amount	\$31.683m	\$14.058m	\$5.148m	\$5.141m
20/80	Share of budget	53.3%	23.0%	12.2%	11.5%
	Levy rate	1.26%	0.89%	0.54%	0.44%
	Expected amount	\$30.708m	\$14.381m	\$5.346m	\$5.655m
30/70	Share of budget	51.6%	23.4%	12.6%	12.4%
	Levy rate	1.23%	0.90%	0.57%	0.48%
	Expected amount	\$29.977m	\$14.543m	\$5.643m	\$6.169m
<b>Share of current (2013/14 to 2015/16) budget</b>		<b>61.9%</b>	<b>20.9%</b>	<b>9.9%</b>	<b>7.3%</b>
<b>Current levy rate</b>		<b>1.31%</b>	<b>0.74%</b>	<b>0.60%</b>	<b>0.30%</b>
<b>Current expected amount</b>		<b>\$33.353m</b>	<b>\$11.337m</b>	<b>\$5.381m</b>	<b>\$3.945m</b>

1. The NCGM and casino shares of the budget for 2016/17 to 2018/19 are lower than their shares of the total expected levy amount under any of the weightings because they must make up under-recoveries in the previous periods. The New Zealand Racing Board and New Zealand Lotteries Commission shares of the budget are higher than their shares of the expected levy amount because they are to be reimbursed over-recoveries.
2. The total expected levy amount across the four levy-paying sectors does not exactly match the total levy requirement of \$56.202 million for 2016/17 to 2018/19 under any of the four weightings. These minor variances are a result of the levy rates being calculated to multiple decimal places before being rounded to two places. The variances are eliminated when under-recoveries and over-recoveries are calculated before the start of the subsequent levy period.

96. Table 4 shows the estimated net under-recovery or over-recovery of levy for each sector for the four previous levy periods to 30 June 2016, and the net under-recovery across all four sectors for those periods.

**Table 4: Under-recovery or over-recovery of levy, 2004/05 to 2015/16, by sector**

<b>Sector</b>	<b>\$m (GST exclusive)</b>
NCGMs	-1.308
Casinos	-1.567
NZRB	1.364
NZLC	0.648
Net under-recovery	-0.863

A negative figure indicates under-recovery and a positive figure indicates over-recovery.

97. Table 3 shows that, under any of the four alternative weightings, the NCGM sector would pay a smaller share of the budget than it was required to pay in 2013/14 to 2015/16. Its levy rate would be lower under any of the weightings except the 5/95 weighting. Despite its levy rate being higher under the 5/95 weighting, under the levy rate that would result from that weighting and under any of the other three levy rates the amount it would be expected to pay towards the total levy requirement would be smaller than in 2013/14 to 2015/16. It is apparent that, on almost all measures, the reductions in the percentages of both expenditure and presentations attributed to the NCGM sector in 2014/15 outweigh the requirement for that sector to make up an under-recovery of levy in previous periods.
98. The casinos and the New Zealand Lotteries Commission face higher shares of the budget, higher levy rates and higher expected levy amounts than in the 2013/14 to 2015/16 period under any of the weightings. For the casinos, this is largely because of small increases in that sector's percentages of both expenditure and presentations, and an under-recovery of levy in previous periods. In the case of the New Zealand Lotteries Commission, it is largely because a substantial increase in its percentage of presentations outweighs both a small reduction in its percentage of expenditure and a requirement for it to be reimbursed an over-recovery of levy in previous periods.
99. The New Zealand Racing Board faces higher shares of the budget but lower levy rates than the 2013/14 to 2015/16 period under any of the four alternative weightings. It faces a lower expected levy amount under three of the four alternative levy rates, but a higher expected levy amount under the 0.57% levy rate that results from the 30/70 weighting. These changes are largely the result of increases in its percentages of both expenditure and presentations sometimes outweighing and sometimes being outweighed by a requirement for it to be reimbursed an over-recovery of levy in previous periods.
100. In consultation, no submitters expressed a preference for the 5/95 weighting. Gambling industry organisations preferred weightings that limited their own levy liabilities. The casinos, the New Zealand Racing Board and the New Zealand Lotteries Commission supported the 10/90 weighting. The NCGM sector preferred 30/70. One gambling harm service provider favoured 10/90. One DHB, one gambling harm service provider and an individual agreed with the Ministry's expressed preference for the 20/80 option. Two gambling harm service providers and one academic organisation favoured 30/70.

101. When the levy for 2013/14 to 2015/16 (the current levy) was set, both the Ministry and the Gambling Commission recommended the 30/70 weighting. The Ministry proposed a 20/80 weighting for 2016/17 to 2018/19, and said that it considered any weighting from 30/70 to 5/95 to be reasonable, largely because it considered that changes it had made to the system for attributing presentations from 1 October 2011 meant that the arguments for the 30/70 weighting were no longer as strong.
102. The weighting was 10/90 (10% on expenditure and 90% on presentations;  $W_1 = 0.1$  and  $W_2 = 0.9$ ) in all four levy periods to 30 June 2016.
103. The Ministry's preferred option is the 20/80 weighting.

### **Gambling Commission's independent advice**

104. In its report, the Gambling Commission agreed with the Ministry's expressed preference for the 20/80 weighting for the 2016/17 to 2018/19 period (Gambling Commission 2015). Unlike the Ministry, the Gambling Commission could see no justification for either a 5/95 or a 10/90 weighting.
105. The Gambling Commission's comments on its reasoning can be summarised as follows:
  - The Act's definition of "harm" is very broad. However, presentations represent only a small subset of harm and one that tends to be at the acute end of the continuum.
  - Presentations are a head count of those who received an intervention other than a brief screening intervention. That count pays no regard to the degree of harm suffered or the number of sessions provided to treat that harm.
  - Therefore, too heavy a weighting on presentations fails to recognise that presentations are not a sound proxy for gambling harm.
  - The Strategy must include measures to promote public health, independent scientific research associated with gambling and evaluation. A gambling sector's share of presentations is not necessarily an appropriate indicator for determining the share that a sector should bear of these costs. The weighting between expenditure and presentations should spread the burden fairly across the four levy paying sectors.
  - Therefore, a weighting of either 5:95 or 10:90 is inconsistent with a public health approach.
  - As the NCGM sector generates the most expenditure and presentations, it will contribute the most to the cost of the Strategy at a range of weightings.
  - The NCGM sector's share of overall expenditure and presentations is declining, while expenditure and presentations are increasing for the three other sectors subject to the levy. However, the effect of the new variable **R** means that only the reduction in expected expenditure and not the reduction in presentations is taken account of in hindsight readjustment.

### **Impact of the weighting option chosen**

106. The weighting does not affect the total levy requirement. It only affects the portion of the levy that each levy-paying sector is expected to pay. The weighting option chosen is not expected to have a significant impact on consumers. However, it will have an impact on the amount of money that NCGM operators and the New Zealand Lotteries Commission have available for allocation to community purposes, the amount the New Zealand Racing Board can distribute to the racing industry, and the six casinos' net profits.

## Consultation

107. The Act details a lengthy consultation process. The Ministry must undertake a needs assessment, prepare a draft strategy with costings, and estimate levy rates for the affected gambling sectors. The Ministry then consults relevant gambling operators, problem gambling service providers, and any other groups that it considers are likely to be affected significantly by the proposed strategy. It revises its proposals before submitting them to Ministers of Health and Internal Affairs, and to the Gambling Commission. The Gambling Commission undertakes an independent analysis of the Ministry's proposals, convenes its own consultation meeting and provides its own advice to Ministers.
108. The Ministry and the Gambling Commission followed the process set out in the Act.

### Who has been consulted and the form of the consultation

109. Government agencies consulted before release of the consultation document were:

- the Department of Corrections
- the Department of Internal Affairs
- the Inland Revenue Department
- the Ministry of Business, Innovation and Employment
- the Ministry of Consumer Affairs
- the Ministry of Education
- the Ministry of Justice
- the Ministry of Pacific Island Affairs (now the Ministry for Pacific Peoples)
- the Ministry of Social Development
- the Ministry for Women
- the Ministry of Youth Development
- the New Zealand Police
- the Office for Disability Issues
- the Office of Ethnic Communities
- the Office for Senior Citizens (now the Office for Seniors)
- Te Puni Kōkiri
- the Treasury
- Sport New Zealand.

110. The Department of the Prime Minister and Cabinet was informed.
111. On 31 July 2015, after receiving Cabinet approval, the Ministry released its consultation document, *Preventing and Minimising Gambling Harm* (Ministry of Health 2015a). As required by the Act, the document included the Ministry's draft Strategy and estimated problem gambling levy rates for 2016/17 to 2018/19. It also included a needs assessment, as required by the Act.

112. A wide range of gambling operators and other gambling industry groups, problem gambling service providers, health sector groups, researchers, and local government representatives were informed about the proposals.
113. Six weeks were allowed for written submissions. The Ministry also held ten consultation meetings in the five main centres, comprising five general meetings, three designed to obtain Māori, Pacific and Asian viewpoints, and two meetings with the gambling industry. Forty-seven written submissions were received, from representatives of a wide cross-section of stakeholders and from two individuals. (Thirty-seven submissions were received during the previous consultation period in 2012, sixty-five in 2009, and fifty-six in 2006.)
114. An independent contractor examined the submissions and produced an analysis (Allen and Clarke 2015b). The Ministry considered the submissions and the analysis, and prepared a table of responses to key issues raised and a final proposals document (Ministry of Health 2015b and 2015c). These documents were all made publicly available on the Ministry's website.
115. The Gambling Commission also provided these documents to invitees to its consultation meeting, which was held on 27 November 2015. As required by the Act, it requested the attendance at that meeting of the Ministry, the Department of Internal Affairs, representatives of gambling operators subject to the levy, representatives of providers of problem gambling services, and representatives of other groups that the Commission believed were likely to be significantly affected by the levy. All invitees had an opportunity to make submissions at the meeting. The Commission also engaged an expert, Synergia Limited, to advise it on the Ministry's proposed service plan and levy calculations.
116. On 9 December 2015, the Commission submitted its independent report (Gambling Commission 2015) to Hon Peter Dunne, as Minister of Internal Affairs and the relevant Associate Minister of Health. That report essentially supported the Ministry's proposed Strategy and levy rates.

## **Significant issues raised and changes as a result**

117. Significant comments made during consultation on the Strategy and levy rates are summarised below.

### **Comments on the Strategy**

118. Most submitters who commented on the Strategy were supportive, albeit that this support was often qualified by comments on specific aspects and suggestions for enhancements.

### **Changes to the Strategy**

119. The key changes the Ministry made to the Strategy after consultation and before submitting its proposals to the Gambling Commission were:
  - the inclusion of an edited version of the 2015 Needs Assessment as an overview of the gambling environment, at the front of the nine-year Strategic Plan component of the proposed Strategy
  - a short section in the overview discussing the harmful impacts on children living with a parent or caregiver who has a serious gambling problem
  - a short section in the overview discussing gambling harm among older adults



- the updating of the intervention service data in the overview to refer to the 2014/15 year
- some limited re-drafting in several sections, discussing the vulnerability of certain segments of the Asian population to gambling harm
- some strengthening of the section on public health
- a reference in one of the objectives to *Supporting Parents, Healthy Children*, a guideline covering the implementation of systems, policies and practices to identify and address the needs of parents with mental health and/or addiction issues.

### **Comments on the problem gambling levy**

120. Most of the submissions about the proposed problem gambling levy focused on two issues. These were the proposed weighting and the calculation of the new variable in the formula relating to the under-recovery or over-recovery by sector of levy in previous levy periods (**R**).

### **Changes to the problem gambling levy**

121. After its consultation process and before submitting its final proposals to the Gambling Commission, the Ministry updated its levy proposals to reflect IRD player expenditure data to the end of the 2014/15 year.
122. In response to a submission made to the consultation document, the Ministry also attributed its under-spending to the levy periods in which it occurred, rather than to the twelve-year period as a whole.
123. The Ministry still proposed a 20/80 weighting, and the Gambling Commission endorsed this recommendation.
124. During the consultation process, several NCGM operators submitted that **R** should be estimated after first retrospectively re-calculating the share of the Ministry's spending that was required from each levy-paying sector in each previous levy period.
125. The Ministry's view is that nothing in the Act suggests that each sector's levy liability for each period should be re-calculated in this way. The Commission considered that the approach advanced by the Ministry is the most likely to reflect legislative intent.

# Conclusions and Recommendations

## Whether to allow the strategy and levy simply to expire

126. This option could be considered to be inconsistent with the intent of the Act. It is not recommended.

## Ministry's appropriation for 2016/17 to 2018/19

127. The Ministry seeks an appropriation of \$55.339 million (GST exclusive) to implement its Strategy to Prevent and Minimise Gambling Harm for 2016/17 to 2018/19 (see Table 5). The Gambling Commission essentially endorsed the Ministry's proposed Strategy and costings.

**Table 5: Proposed Ministry of Health Budget (GST exclusive), 2016/17 to 2018/19**

Service	2016/17 (\$m)	2017/18 (\$m)	2018/19 (\$m)	Total (\$m)
Public health services	6.770	6.850	6.770	20.390
Intervention services	8.461	8.461	8.461	25.383
Research and evaluation	2.209	2.210	2.210	6.629
Ministry operating costs	0.957	0.990	0.990	2.937
<b>Total (\$m)</b>	<b>18.397</b>	<b>18.511</b>	<b>18.431</b>	<b>55.339</b>

128. This amount (\$55.339 million) is the same as the appropriation approved for the current (2013/14 to 2015/16) period (refer to Table 1).
129. Some relatively minor re-allocations and re-phrasings of budget are proposed for 2016/17 to 2018/19. The Ministry also proposes to develop and pilot one or more initiatives to reduce gambling-harm-related inequities, but it proposes to do so within the same budget as in the current period.
130. Assuming that the Ministry's appropriation is set at \$55.339 million, the total levy requirement for 2016/17 to 2018/19 would be \$56.202 million (taking into account a net under-recovery of levy in the previous levy periods).

## The levy-paying gambling sectors

131. The Ministry and the Gambling Commission recommend no change to the four sectors required to pay the problem gambling levy:
- non-casino gaming machine (NCGM) operators, including clubs and the New Zealand Racing Board in respect of their NCGMs
  - casinos
  - the New Zealand Racing Board in respect of its racing betting and sports betting products
  - the New Zealand Lotteries Commission.

## The weighting and the resulting levy rates

132. The Ministry's view is that any of the four alternative weightings from 5/95 to 30/70 could be considered reasonable. By contrast, the Gambling Commission considers that there is no justification for either the 5/95 or the 10/90 weighting.
133. The Ministry and the Commission both recommend the 20/80 weighting, largely because it is seen as better reflecting all the required components of the Strategy, not just harm that results in treatment at the acute end of the harm continuum. The levy rates that would result are set out in Table 6.

**Table 6: Recommended levy rate for each gambling sector, 2016/17 to 2018/19**

Expenditure to presentation ratio	Levy rate payable (%; GST exclusive)			
	Non-casino gaming machines	Casinos	New Zealand Racing Board	New Zealand Lotteries Commission
20/80	1.26	0.89	0.54	0.44

## Implementation

134. Assuming that Government decides to refresh the Strategy and put in place a new levy, its decisions will be incorporated in problem gambling levy regulations to take effect on 1 July 2016 and remain in force until 30 June 2019. These regulations must be notified in the *Gazette* by 2 June 2016 in order to comply with the 28-day rule.
135. Once the regulations are notified in the *Gazette*, the Ministry will confirm contract arrangements with its service providers, and the IRD will conclude system changes to implement any changes to the levy rates. DIA will advise gambling operators of the new levy rates.
136. The Ministry has rolled over contracts until 30 June 2017. These arrangements were necessary to ensure stability in the sector during the transition from the 2013/14 to 2015/16 Strategy to the 2016/17 to 2018/19 Strategy.
137. If Cabinet's decision on the Ministry's appropriation for 2016/17 to 2018/19 differs from that in the proposed Strategy, the Ministry will meet any shortfall in costs from within existing baselines, and realign (or exit) contracts from 30 June 2017 to remain within Cabinet's approved appropriation.

## Monitoring, Evaluation and Review

138. In 2018, the Strategy should be refreshed and new problem gambling levy regulations developed to come into effect on 1 July 2019. This process will entail a review of the Strategy, and detailed consultation on a needs assessment, the draft Strategy, costings for the draft Strategy, and estimated levy rates. As required by the Act, the Ministry will consult widely on its proposals before providing them to the Gambling Commission. As it did in 2015, the Commission will again undertake its own analysis and consultation, and provide independent recommendations to Ministers.
139. In the meantime, the Ministry will continue monitoring and evaluating the services it purchases and the effectiveness of the strategy by:
- continuing its standard contract management processes, including monthly data collection, six-monthly reporting, routine audits, and verification visits
  - continuing its research and evaluation programme, including evaluations of both public health and intervention service delivery, the national gambling study, clinical trials of telephone and face-to-face interventions, longitudinal studies, and an outcomes monitoring and reporting project.

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