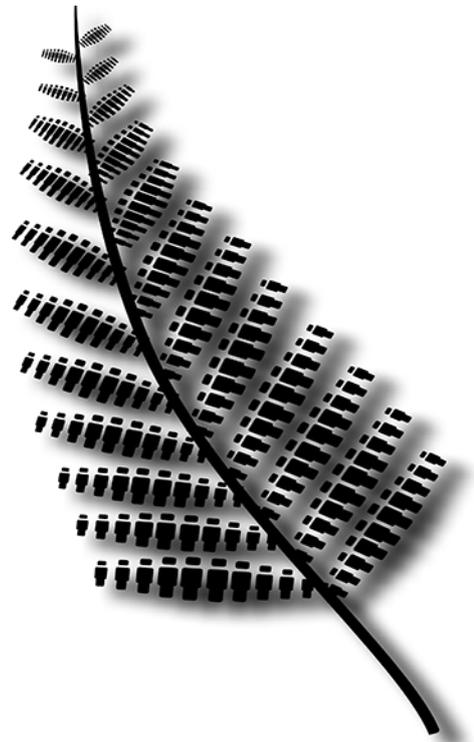




Discussion Document: Review of Class 4 gambling

**Department of Internal Affairs
June 2016**



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Glossary of abbreviations and terms

Actual, reasonable and necessary costs	<i>Actual</i> – the society and venue operator must be able to show that the costs were actually incurred; <i>Reasonable</i> – the costs must be in proportion to the size of the operation, and should take into account normal market values or prices for the goods and services provided; <i>Necessary</i> – the costs must be necessary to the conduct of gambling and legal compliance
Apply	Where a society spends its net proceeds directly on the society’s own authorised purpose
Authorised purpose	Means a charitable purpose, or a non-commercial purposes that is beneficial to the whole or a section of the community, or promoting, controlling and conducting race meetings under the Racing Act 2003, including the payment of stakes
Class 4 gambling	Gambling where the net proceeds are applied to or distributed for authorised purposes; where no commission is paid to, or received by, a person for conducting it; where it satisfies the relevant game rules; and it utilises a gaming machine
Clubs	Voluntary association of persons combined for a purpose other than personal gain
Community or Communities	The beneficiaries of grants from class 4 and other modes of gambling. Thousands of grants to community groups, schools, sporting organisations and other beneficiaries are made each year from class 4 alone, as well as from other sources of gambling. Some grants are made to national bodies or sporting codes
Distribute	Where a society makes a grant to another person for that person to spend on an authorised purpose
Duty	Tax paid to the Crown on gaming machine profits
Fees	Fees paid by gambling operators to the Department of Internal Affairs
Gaming machine profits (GMP)	The turnover of class 4 gambling minus the total prizes paid
Gross proceeds	The turnover of class 4 gambling, less prizes, plus interest or other investment return on that turnover, plus any gain above the book value from the sale or disposal of gambling assets

Levy	Problem gambling levy
Minimum rate of return	This is the minimum amount of proceeds that a licence holder must distribute for authorised purposes and is currently equivalent to 40 per cent of GST exclusive gross proceeds per financial year
Net proceeds	The amount remaining to be distributed to authorised purposes, which is calculated by taking a society's gambling turnover (less prizes) and <i>adding</i> interest or other investment return, and any gains from the sale of gambling assets above their book value, then <i>deducting</i> costs, levies and taxes, asset depreciation and any loss from selling or disposing of gambling assets below their book value
Society	A society that is incorporated under the Incorporated Societies Act 1908, or incorporated as a board under the Charitable Trusts Act 1957, or a company incorporated under the Companies Act 1993 that does not have the power to make a profit and is incorporated solely for authorised purposes, or a working men's club registered under the Friendly Societies and Credit Unions Act 1982

What is this consultation document about?

This discussion document seeks your views on how community funding from class 4 gambling (pokies in clubs, pubs and bars) can be sustained into the future. Class 4 gambling expenditure has declined since the passing of the Gambling Act 2003, leading to a consequent decrease in funding to communities.

We want your opinion on what the issues and challenges are for the class 4 sector and community funding, and ideas on how things might be improved. We are also seeking ideas for a cost effective regulatory model for the sector that maximises community funding into the future, without increasing harm or driving a growth in gambling.

We are also taking this opportunity to seek views on the future of online gambling in New Zealand.

The Department has had initial conversations with a number of stakeholders about the challenges and opportunities in the sector. Some of their comments have been reflected in this document.

Sending us your submission

Please send your submission to the Department of Internal Affairs by Friday 12 August 2016.

Please note that all submissions may be made publicly available. Even if you request confidentiality, we may have to release your submission at a later date if a request is made under the Official Information Act 1982. In your submission please highlight the information you would prefer was withheld should a request be made.¹

Your submission can be sent in the following ways:

Email: gamblingreview@dia.govt.nz

Post: Safer Communities Team
Policy Group
Department of Internal Affairs
PO Box 805
Wellington 6140

Although all reasonable steps have been taken to ensure the accuracy of the information contained in this document, the Department of Internal Affairs disclaims responsibility for any inaccuracy in relation to the information; and fully excludes liability of any kind to any person or entity that chooses to rely upon the information.

¹ While you may indicate the information you would like withheld, it can only be withheld if it meets the relevant criteria under the Official Information Act 1982.

Why are we doing this review?

The Government is reviewing the framework for managing class 4 gambling to see whether it remains fit-for-purpose. Class 4 gambling provides valuable grant funding to communities (approximately \$260 million last year). Since the enactment of the Gambling Act in 2003, a combination of factors have led to a decrease in class 4 gambling expenditure, and a decline in funds being available for distribution to communities.

Gaming machines were introduced to New Zealand in the late 1980s. As shown in Figure 1 below, there was huge growth in expenditure on gaming machines² in the late 1990s and early 2000s, compared with other forms of gambling. This rapid growth created many issues and prompted a review of gaming machines, resulting in the Gambling Act 2003. A decrease in expenditure on class 4 gambling can be seen from 2004 onwards.

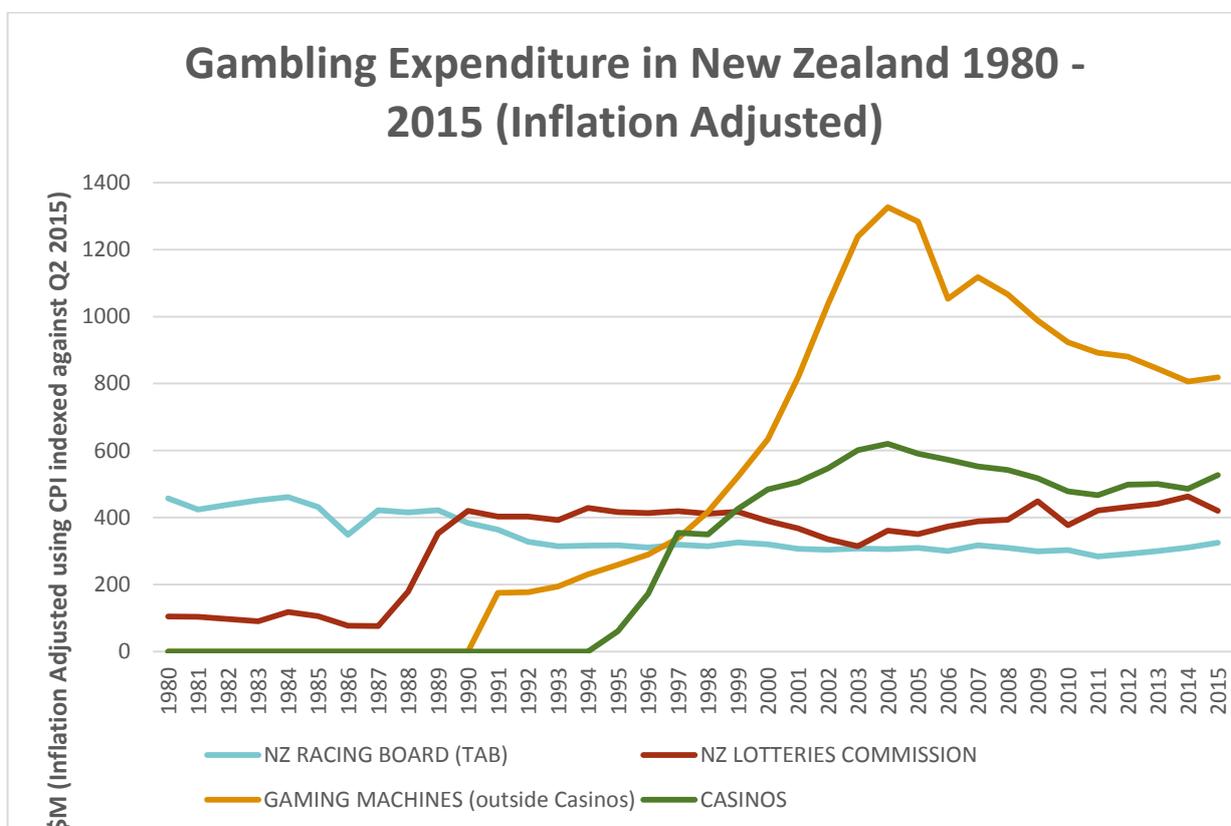


Figure 1: Gambling Expenditure 1980 to 2015 (inflation adjusted³)

Between 2004 and 2015, expenditure decreased from \$1,328 million to \$818 million in real (i.e. inflation-adjusted) terms. The decrease in class 4 expenditure is the reason why total expenditure across all main forms of gambling decreased over this period.

Funding to community organisations from non-club societies reduced from \$389 million in 2004, to \$262 million in 2015⁴ in real terms, a decline of 33 per cent. Community funding from class 4 gambling has been relatively stable in recent years.

² Represented here as gaming machines located outside casinos.

³ Inflation adjusted expenditure is based on CPI adjustments using June 2015 as index point and working backwards using adjustments from Statistics NZ. Figures are GST-inclusive.

Class 4 expenditure has increased since 2014 and there are signs that the sector is stabilising, and is more mature. Improving economic conditions and population growth are likely to have driven some of this growth. However, the future of the sector and the sustainability of community funding remains uncertain, due to factors explored later in this discussion.

Objectives

The objectives of this review are to look at:

- the long-term sustainability and effective allocation of funding to communities without driving a growth in gambling;
- whether the legislation is still fit-for-purpose;
- whether the sector can be regulated more cost-effectively; and
- preventing and minimising harm from gambling.

This discussion paper seeks your views on how to achieve the above objectives.

⁴ All funding figures are GST-exclusive

PART I: Overview of class 4 gambling

The purpose of the Gambling Act 2003 (the Gambling Act) is to:

- control the growth of gambling;
- prevent and minimise harm from gambling, including problem gambling;
- authorise some gambling and prohibit the rest;
- facilitate responsible gambling;
- ensure the integrity and fairness of games;
- limit opportunities for crime or dishonesty associated with gambling and the conduct of gambling;
- ensure that money from gambling benefits the community; and
- facilitate community involvement in decisions about the provision of gambling⁵.

There is potential for conflict between some of these purposes. This approach was deliberate, to encourage decision-making that balances the need to minimise the harm from gambling with the desire to generate benefits to the community from gambling money. In order to achieve these purposes, the Department undertakes gambling licensing, compliance and enforcement functions.

The Gambling Act classifies gambling based on the amount of money spent and the risk of problems associated with that type of gambling. The four classes are:

- Class 1: Small scale gambling where the prizes cannot exceed \$500, and no licence is required. Examples of class 1 gambling include office sweepstakes.
- Class 2: Gambling where the person conducting the gambling is not paid, the gambling must be run by a society, and all the proceeds from gambling must be applied to an authorised purpose (a definition of authorised purposes can be found in the Glossary). Prizes may not exceed \$5000, no more than \$25,000 can be gambled in one session, and no licence is required.
- Class 3: Gambling where prizes awarded for the gambling activity can exceed \$5000, may only be run by a society, the money must be raised for an authorised purpose, and a licence to operate is required. Examples are the national lotteries run by the Heart Foundation and Coastguard NZ.
- Class 4: Gambling activity involving the use of gaming machines outside of a casino, and may only be run by a non-club society or club to raise money for an authorised purpose. The gaming machines are found in clubs, like RSAs and bowling clubs, commercial venues, such as pubs and bars, and New Zealand Racing Board (TAB) venues.

Other major forms of gambling in New Zealand include Lotto New Zealand, betting on racing and sports, and casinos. The focus of this review is on class 4 gambling.

⁵ Section 3 of the Gambling Act 2003

Class 4 gambling

Class 4 gambling is gambling using non-casino gaming machines, also known as “pokies”. There are three types of class 4 societies. Non-club societies operate machines in separately owned pubs and bars. Club societies operate gaming machines from their own clubrooms. The New Zealand Racing Board also operates gaming machines in venues it owns or leases. All operators require licences from the Department.

Table 1 shows a summary of the sector as at 31 March 2016.

Table 1: Class 4 gambling sector by societies, venues and gaming machines, as at 31 March 2016

Type of society	Number licensed	Licensed venues	Gaming machines
Non-club ⁶	38	961	13,015
Club	254	263	3,259
Total	292	1224	16,274

Non-club societies own almost 80 per cent of the gaming machines operating in licensed venues. These societies also generate most of the gaming machine profits and grants returned to the community.

All class 4 societies must apply or distribute their proceeds from gaming machines to authorised purposes. When applying for a licence, a non-club society (which distributes its funds) has to specify what authorised purposes it intends to raise money for. Non-club societies must then grant funds only to those purposes that are specified in their licence, which must be consistent with the purposes set out in their trust deeds or constitutions.

Authorised purposes for class 4 gambling are defined in the Gambling Act as⁷:

- a charitable purpose;
- a non-commercial purpose that benefits the whole or a section of the community; and
- promoting, controlling, and conducting racing meetings under the Racing Act 2003.

Class 4 structure

Clubs

Clubs own and host their gaming machines and mainly apply the money raised from their gaming machines to the club. Most clubs are non-profit organisations which are predominantly owned by their members.

Examples of clubs are RSAs, sports clubs and cosmopolitan clubs. Each club has an active membership that has the opportunity to be involved with sports and other social activities the clubs run. Members who gamble in the clubs are more than likely benefiting from the proceeds of their gambling.

⁶ Includes the New Zealand Racing Board.

⁷ Section 4(1) of the Gambling Act 2003.

Clubs are subject to gaming machine duty and the problem gambling levy. However, the application to authorised purposes and operating costs are different. Figure 2 shows the allocation of funds. Clubs also apply approximately \$55 million per year to their own purposes and the wider community.

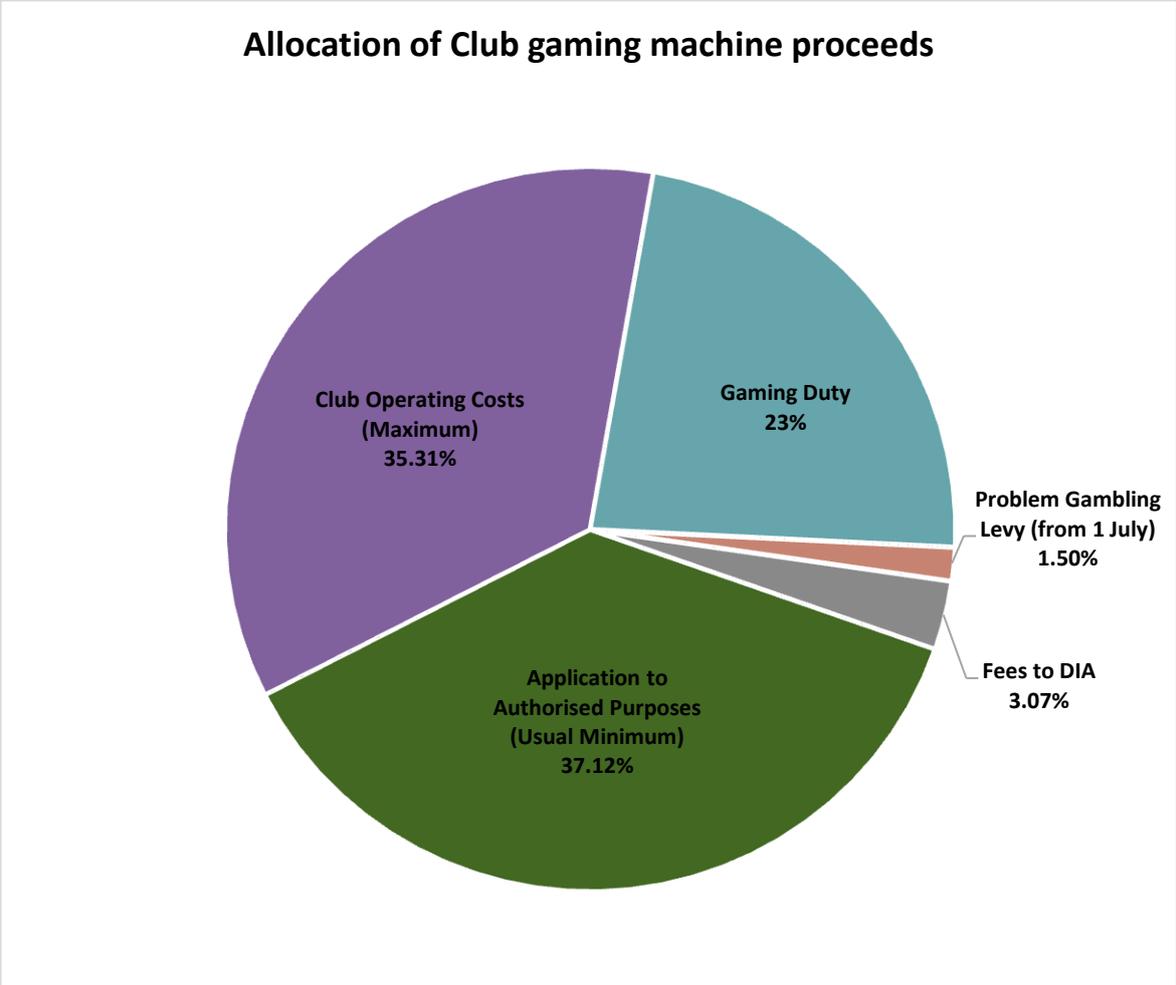


Figure 2: Allocation of Club gaming machine profits (GST exclusive)

Non-club societies

Non-club societies own gaming machines and reimburse pubs and bars for hosting the machines. Non-club societies must be non-commercial, and can be established in various corporate forms, including companies, trusts, charities, or incorporated societies. Non-club societies make their own decisions on how to run their operations and how they distribute their grants, within the constraints of the Gambling Act and its related regulations.

There are no limits on how many non-club societies can be licensed, as long as they meet the licensing requirements of the Gambling Act. This allows persons to establish societies to raise money through gaming machines for their chosen community cause. Non-club societies mainly distribute net proceeds from their gaming machines to community organisations that align with the societies’ authorised purposes. There are a small number of non-club societies that mainly apply their proceeds to their own authorised purposes (Youthtown for example).

Non-club society costs are mostly fixed and include gambling fees, gaming machine duty and a problem gambling levy. These make up around a quarter of all costs. Other costs include operating costs and a capped reimbursement payment of 16 per cent of gaming machine profits from gambling to venues that host the societies' gaming machines. Societies are also required to distribute a minimum of 40 per cent of gambling proceeds by way of grants funding to communities. Figure 3 shows a breakdown of non-club societies' costs.

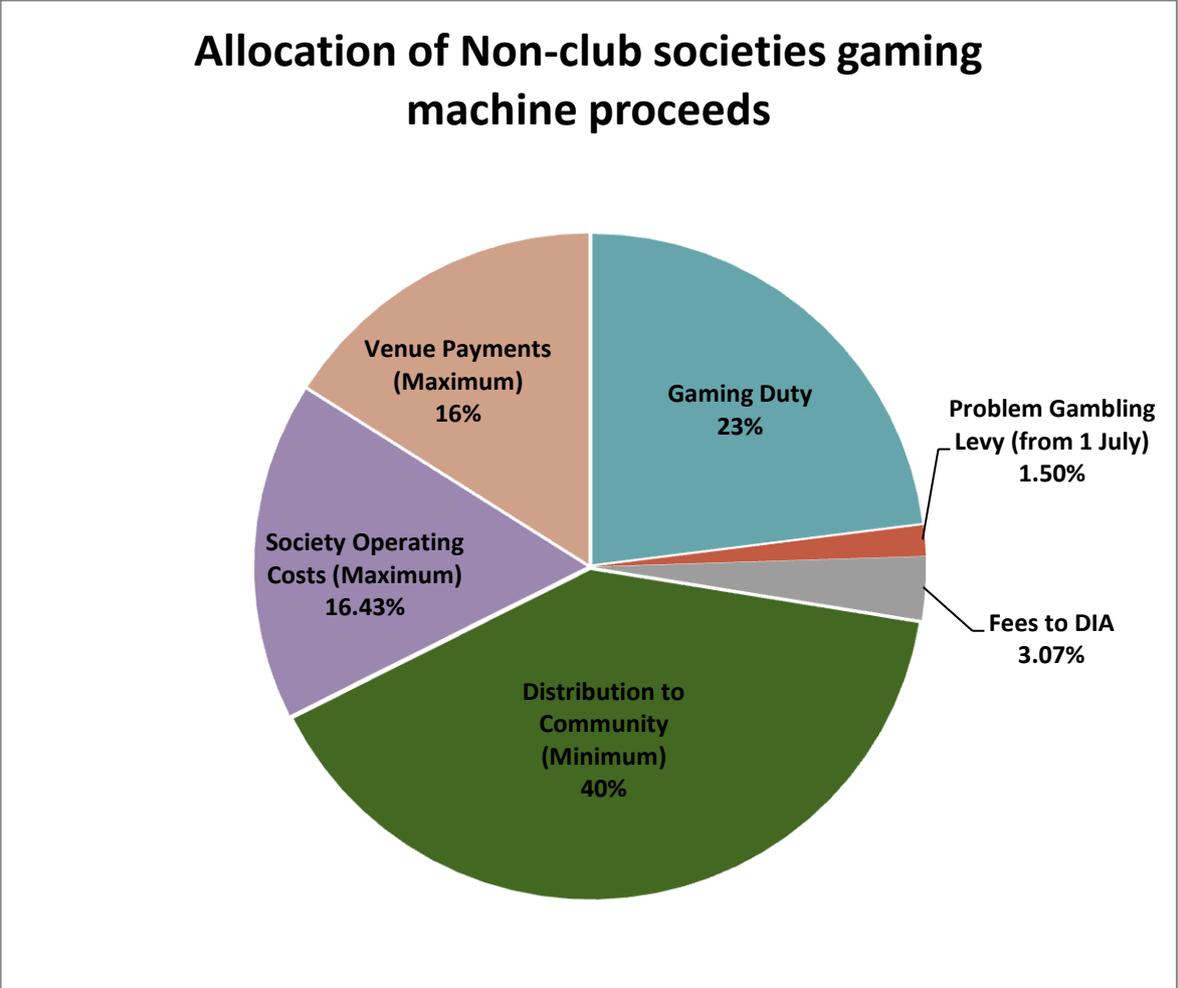


Figure 3: Allocation of Non-club society gaming machine profits (GST exclusive)

New Zealand Racing Board

Under the Racing and Gambling Acts the New Zealand Racing Board (NZRB) has a statutory monopoly on terrestrial sports and racing betting services in New Zealand through the TAB. The Gambling Act also permits the NZRB to operate gaming machines at its TAB venues. Its venues are mainly used for racing and sports betting. The majority of funds generated by the NZRB's gaming machines are applied under its racing authorised purposes and up to 20 per cent distributed to amateur sports.

The Minister for Racing is developing proposals to deal with online racing and sports betting activities. The proposals are relevant to the class 4 review as they will potentially increase overall gambling options for New Zealanders. This work is proceeding separately, though decisions on racing reform will be taken into consideration for this wider review.

Minimising harm from gambling

One of the purposes of the Gambling Act is to prevent and minimise harm from gambling, including problem gambling. Gambling can be a harmless form of adult entertainment that can provide positive social effects. However, gambling can also have adverse effects on many individuals, their families and their communities.

The main gambling providers in New Zealand must pay a problem gambling levy under the Gambling (Problem Gambling Levy) Regulations 2013⁸. Casinos, non-casino gaming machine (class 4) operators, Lotto New Zealand, and the NZRB currently pay a problem gambling levy as specified in the Regulations.

The levy payments reimburse the Crown for the costs of the Ministry of Health to implement the Act's purpose of preventing and minimising harm from gambling. This is part of the Ministry's wider responsibility for the integrated problem gambling strategy described in the Act. This strategy must include⁹:

- measures to promote public health by aiming to prevent and minimise harm from gambling;
- services to treat and assist problem gambling and their families and whanau;
- independent scientific research on gambling, including longitudinal studies on the social and economic impacts of gambling; and
- evaluation.

This strategy is updated every three years, and a new strategy has recently been published and is available on the Ministry of Health's website.

Class 4 societies and venues which host gaming machines also have particular obligations under the Gambling Act to prevent and minimise harm from gambling. Most of these obligations can be found in the Gambling (Harm Prevention and Minimisation) Regulations 2004. For example:

- class 4 gambling operators must develop a policy to identify problem gamblers;
- staff managing a class 4 venue must take all reasonable steps to ensure that the policy is used to identify actual or potential problem gamblers;
- customers who are identified as problem gamblers may be issued an exclusion order. Customers can also request to be excluded from a venue.

Gambling inspectors from the Department will visit venues to check whether they meet the harm minimisation obligations in the Gambling Act. The Department can apply a range of sanctions, including revoking operating licences, if it believes gambling harm policies are not being implemented.

⁸ New problem gambling levy regulations are due to come into effect on 1 July 2016.

⁹ Section 317(2) of the Act.

Problem gambling

Research tells us that harm related to problem gambling is more likely to affect people living in high deprivation neighbourhoods. Māori and Pacific peoples are more likely than the general population to develop problem gambling, and more likely to suffer gambling-related harm.

Estimates of problem gambling in New Zealand vary between surveys. Results from the comprehensive 2012 National Gambling Study indicate that approximately 0.7 per cent of the adult population of New Zealand are problem gamblers. This represents about 23,504 people with significant gambling problems. The National Gambling Study also found that 1.8 per cent of New Zealand adults, or 64,440 people, are moderate-risk gamblers. A further 5 per cent or 167,888 people are lower risk gamblers. More recent results for 2013 indicate a slight reduction in the prevalence of problem gambling (0.5 per cent), but no major change for 2014.¹⁰

In terms of ethnicity, the 2012 National Gambling Study reported a prevalence of problem gambling for Māori of 2.3%, with 3.9% of Māori considered moderate-risk gamblers. For Pacific peoples, the prevalence of problem gambling was 1.6%, with 6.4% considered to be moderate-risk gamblers. For Asian peoples, the prevalence for problem gambling was 0.7% and 2.3% for moderate-risk gamblers. More recent results from 2013 and 2014, indicate that these ethnic groups continue to have similarly high rates of problem and moderate-risk gambling.

There is a significant association between the prevalence of problem gambling and average monthly expenditure. The prevalence of problem gambling is 13.1% for those who spend more than \$500 on average per month on gambling. This is in comparison to a prevalence of 1.1% of problem gambling for those who spend \$51 to \$100 on average per month on gambling.

From 1985 to 1990, total gambling participation by adult New Zealanders increased from 85% to 90% and remained at this level up to the mid-1990s. From this point on participation declined to 80% at 2005, and has remained around this level. However, while total gambling participation has decreased, and risk factors for gambling harm have decreased (such as participation in multiple gambling activities), there has not been a significant decrease in the prevalence of problem or moderate-risk gambling since 2005.

Wider effects

In 2012, approximately 380,000 New Zealanders reported having gambling-related arguments, and about 260,000 reported having to go without something they needed or not paying bills because of another person's gambling.

Harm from gambling can also include poor parenting, family violence, other crime, and suicide. These harms affect people other than the gambler.

¹⁰ "The severity of gambling problems is classified using the Problem Gambling Severity Index (PGSI). Low risk gamblers score 1-2 problems on the PGSI, moderate risk gamblers score 3-7, and problem gamblers score 8 or more". Ferris, J. & Wynne, H. (2001).

New Zealanders' attitudes towards gambling

Research¹¹ has shown that New Zealanders have a high awareness that gambling is associated with harm and that some forms of gambling are more harmful than others. Most participants in the research agreed strongly that more should be done to reduce harm from gambling.

Problem gamblers were much more likely to agree that there were too many non-casino gaming machine venues. There was also found to be some public support to further reduce gambling harm and the number of gaming machines available. Over 50 per cent of the participants considered non-casino gaming machines were socially undesirable.

Changes over time and risk factors

For the total adult population the prevalence for problem gambling and moderate risk gambling reduced significantly during the 1990s and has not changed significantly in the last decade. Some key risk factors for problem gambling improved in the years since 2011, including the proportion of people frequently engaging in more harmful continuous forms of gambling (e.g. gaming machines), those gambling weekly or more, and those engaging in multiple gambling activities.

The role of local government

The Gambling Act specifies that a city council or district council (as listed in Schedule 2 of the Local Government Act 2002), must have a class 4 venue policy. A council's venue policy sets out the rules around class 4 gambling in their districts. The aim of venue policies is to give local councils and the communities they represent a say in how class 4 gambling operates in their districts, in line with the Gambling Act's purposes.

When establishing or reviewing their policies, councils have to go through a consultation process as per the Local Government Act 2002. This process allows for class 4 venue policies to reflect local factors and the differences between communities.

Class 4 venue policies must be updated every three years, and must include:

- whether class 4 gambling venues may be established in their district;
- if permitted, where venues may be located; and
- consideration of the social impact of gambling .

Class 4 venue policies may specify a restriction on the maximum number of gaming machines per venue, and may also include a relocation policy. Class 4 societies need consent from the territorial authority if they wish to establish a venue within that councils' district.

Class 4 societies have to apply for consent from territorial authorities when:

- increasing the number of gaming machines that may be operated at a class 4 venue;
- a society is applying for a class 4 venue licence and a licence has not been held by any society for the venue within the last 6 months; and

¹¹ 2015 - Attitudes towards Gambling. New Zealand 2012 National Gambling Study: Report Number 3. Gambling and Addictions Research Centre and Auckland University of Technology.

- a society proposes, in accordance with a relocation policy of the territorial authority, to change the venue to which a class 4 venue licence currently applies.

Once a council grants consent for the establishment of a new venue, the venue can apply for a licence from the Department. The Department then monitors the new venue for compliance with the Gambling Act 2003. Territorial authorities do not have the power to close a venue, and cannot revoke its consent. Only the Department can suspend or cancel a venue's licence for non-compliance.

Some councils have a "sinking lid" policy. This usually means that the council concerned is trying to decrease the number of gaming machines and class 4 venues in its district. A sinking lid policy includes a ban on any new gaming machines or venues in a district. Councils can also have caps of the number of venues and/or gaming machines in their districts. Other councils, however, allow for growth in gaming machine numbers and/or venues within their districts.

Under section 101(2) of the Gambling Act, councils must consider the social impact of gambling in their districts when developing a class 4 venue policy. This can include the impact of harm from gambling, as well as the impact of funds going back to community groups in the form of grants. Councils do their own research on the social impacts of gambling in their districts. Information can also be provided by the community, problem gambling treatment providers, and class 4 gambling societies, through the consultation process.

Community funding

The community funding aspect of the "pokie" system is unique to New Zealand. In most other jurisdictions gambling is a "for profit" activity. The class 4 sector returns about \$260 million per year to communities in the form of grants funding (in addition to tax and duty payments to government).

Depending on its structure, a class 4 society can apply or distribute funds to the community. The funds must be applied or distributed within a set timeframe, which is currently set at 12 months. Non-club societies are required, through regulations, to distribute a minimum of 40 per cent of their GST- exclusive gross proceeds¹² to authorised purposes. Clubs, through licence conditions, are required to apply up to a minimum of 37 per cent to authorised purposes.

The funding for community organisations from the other main forms of gambling (excluding casinos) has increased since 2004, which has resulted in community funding remaining relatively stable overall. The total community returns from the gambling sector decreased by only three per cent over 2004 to 2015 in real terms (from \$619 million to \$603 million¹³). In the 2013/14 year, class 4 societies provided approximately 40 per cent of the total amount distributed for community purposes (using the description of 'community' broadly in this context).

¹² Gross proceeds are Gaming Machine Profits plus all other income of a society (for example interest on bank deposits, or from sale of unwanted gaming machines).

¹³ Total excludes distributions by clubs to their own purposes.

While there are exceptions, in general class 4 funding to the community distributes smaller funding amounts within local communities (e.g. local sports clubs, kindergartens, community organisations), whereas community funding from other classes of gambling (e.g. the Lottery Grants Board) is distributed in larger amounts on more of a national or regional basis. Therefore, while other forms of gambling kept the overall pool of funding to the community stable, the overall distribution of funds has probably shifted away from local communities. While class 4 gambling provides more local community funding, it also comes with the highest risk of harm with respect to problem gambling, compared with other forms of gambling.

Regulatory changes already occurring in the sector

A number of recent amendments to the Gambling Act and changes to regulations will have impacts on the sector in the near future. Recent changes include:

- increasing the fees gambling operators pay to fund the regulatory activity of the Department;
- the introduction of a simpler non-club venue payment regime (which should reduce compliance costs for the regulator, non-club societies and venues); and
- the cancelling of scheduled increases to the minimum rate of return to authorised purposes for non-club societies. The rate of return is now fixed at 40 per cent of GST-exclusive gross proceeds.

Other non-regulatory initiatives are also underway, including: work to strengthen the licensing requirements for new class 4 societies; the capacity to audit management companies; and potential for lower regulatory oversight around highly trusted operators (such as through the use of three-year society licences).

PART II: Factors influencing the class 4 sector

This paper seeks your feedback on a range of factors within the class 4 sector that may affect the sustainability of community funding. These are listed below, along with some questions for your consideration.

Legislative restrictions on the class 4 sector

A purpose of the Gambling Act is to control the growth of gambling, and it sets up a highly prescriptive regime under which class 4 societies can operate. The Act also states that class 4 societies must maximise returns to communities, while minimising operating costs.

The Gambling Act was a deliberate response to a sector that had grown rapidly through the 1990s. By early 2003, there was a widespread perception of an oversupply of gaming machines, with an excess of 25,000 machines in operation, owned by more than 100 societies. This was a very high rate of machines per person compared to other jurisdictions. The legal framework was considered fragmented and not fit-for-purpose, and lacked measures to address harm from gambling. There was widespread community dissatisfaction with this rapid growth, and the inability of communities to have a say on how many class 4 venues there should be, and where they should be located.

This rapid growth and perceived oversupply in the sector prompted the development of the Gambling Act. The new legislation established policies to prevent and minimise harm from gambling, and enabled local communities to be more involved in decisions on the availability of gambling in their districts. Since its implementation, the sector has shrunk in terms of the number of class 4 societies, gaming machines, venues, gaming expenditure and the amount of funds being returned to communities.

The Gambling Act and associated regulations place many restrictions on the class 4 sector in light of the potential for harm from class 4 gambling. These restrictions limit class 4 societies' ability to adapt their operations over time. For example, non-club societies who establish new gambling venues are only allowed a maximum of nine gaming machines, but non-club venues that existed before the Gambling Act were allowed 18 machines as part of 'grand parenting' arrangements. Machine numbers are also capped per venue, rather than, for example, nationally.

As noted on page eight, the class 4 sector's costs are highly regulated, particularly for non-club societies. After all mandatory costs are subtracted, about 17 per cent of gaming machine profits remains for non-club societies to run their operations, for example, administering the grant-making process, depreciation costs, salaries, and office rent. This leaves non-club societies with little room to invest in other parts of their business that might lead to better overall outcomes, for example, improved grant making processes.

The Gambling (Harm Prevention and Minimisation) Regulations 2004 also impose various controls on the class 4 sector. Requirements in these regulations include:

- limits on stakes and prizes, including a limit on jackpots of \$1000 for a single play on a gaming machine;
- gaming machines must display certain messages, including information about the odds of winning a game, the duration of a player's session, and the amount a player has spent in a session;
- gaming machines must have features that interrupt play;
- venues cannot advertise jackpots; and
- venues are required to provide information about problem gambling and how to seek help or advice.

Another restriction on class 4 gambling is the inability to offer online gambling options. In New Zealand, only Lotto NZ and the NZRB are currently allowed to offer forms of online gambling.

Questions:

- **Given the changes in the sector since 2003, are the purposes of the Gambling Act still fit-for-purpose?**
- **Do you think the recent stabilisation of class 4 gambling expenditure is due to economic/population changes or changes within the class 4 sector (or both)?**
- **Do you think any changes should be made to the requirements on the class 4 sector? If so, what changes?**
- **What would the impact of any changes be on the responsibility to prevent and minimise harm from gambling?**
- **Do the provisions in the Act go far enough in ensuring funds to communities are maximised?**

The role of local government through local venue policies

One of the purposes of the Gambling Act is to facilitate community involvement in decisions about the provision of gambling. Local class 4 venue policies allow councils and their communities the opportunity to have a say in where class 4 venues are located in their districts, and whether more gaming machines and/or venues can be established.

Class 4 venue policies vary across the 67 different councils (regional councils are not required to have venue policies), and can reflect differences between communities. For example, some councils do not allow any new venues to be established in their districts, whereas other allow new venues, but only in certain areas.

Councils must review their class 4 venue policies every three years. The review process provides the opportunity for the community to provide information to the council on how gambling and the councils' venue policy are affecting the district. This could be information about the benefits from grants to community groups, or about gambling-related harm.

Under class 4 venue policies as at 2013, 64 per cent of councils allowed new class 4 venues and gaming machines, with 36 per cent allowing no new venues or gaming machines. Councils have to update their venue policies every three years. Councils last reviewed their policies in 2013, and many are currently going through the process of reviewing their policies for 2016.

A council must also consider whether to include a relocation policy, but it is not mandatory. About half of all councils have a relocation policy, which sets out if and when a council will grant consent to a venue to move to a new location, where the venue already holds a class 4 licence. For example, if a class 4 venue operator rents a building, and the landlord does not renew the lease, the venue operator will need to move to a new venue. If a council has a relocation policy, the venue operator can move to a new venue in accordance with the policy. If the council does not have a relocation policy, the venue operator may not be able to move to a new venue and would have to cease operating as a class 4 venue.

Questions:

- **What should the role of local authorities be in balancing the benefits of class 4 funding to their communities with the potential negative impacts?**
- **Are there any requirements in the Gambling Act related to venue policies that should be changed? If so, which requirements?**
- **Is requiring councils to review their venue policies every three years a good policy? Should there be more or less time between reviews?**
- **How have local venue policies impacted on both problem gambling and the sustainability of community grants from class 4 gambling?**

The Department's regulatory functions and the cost of regulating gambling

The Department has responsibility for regulating the class 4 environment under the Gambling Act and its associated regulations. This includes regulating the non-club sector, comprising 38 non-club societies, about 960 non-club venues and \$261.9 million in grant funding (in 2014/15). Regulatory activities include:

- Non-club societies have to apply to the Department for a gambling licence. Currently a society must re-apply for a licence every year.
- The Department monitors the amount of funds non-club societies return to communities to check that it reaches the minimum required under regulations.
- Gambling inspectors inspect venues to check they are operating according to the Gambling Act, including the venue's responsibilities around harm minimisation.

Other regulatory activities include efforts to reduce theft and fraud, minimise harm from gambling and maximise returns to the community.

The cost of regulating the non-club sector is approximately \$14 million per annum (GST exclusive). These costs are met by charging fees to gambling operators, which amount to approximately 3 per cent of gaming machine profits from non-club societies. Two-thirds of the Department's fees revenue comes from fees tied to the number of gaming machines in the class 4 sector.

Non-casino gambling fees increased on 1 February 2016. Prior to this, fees had not been reviewed since 2007. When the fees were set on 1 February 2008, it was assumed the number of gaming machines would not reduce below approximately 20,000. At 30 March 2016, there were 16,274 gaming machines operating in the class 4 sector. This has resulted in the revenue from gaming machines decreasing by 20 per cent since 2008. This has meant that the Department had been under-recovering its costs of regulating class 4 gambling, this under recovery has led to a deficit in the Department's gambling memorandum account of \$12.9 million at 30 June 2015.

The recent increase in fees addresses the Department's operating deficit and reduce the deficit in the memorandum account. However, machine numbers are still decreasing, and the long-term sustainability of a funding model based on gaming machine numbers remains questionable. There are also other cost pressures facing the Department, including:

- the operation and maintenance of the Electronic Monitoring System for class 4 gaming machines;
- development and depreciation costs for the Integrated Gambling Platform to assist with regulating the industry; and
- general cost pressures, Departmental overheads and capital charges.

Questions:

- **What influence do the Department's regulatory functions and operational policies have on the sustainability of funding to communities?**
- **Do you think the cost of regulating the class 4 sector is reasonable?**
- **Are there ways of effectively regulating the sector at less cost?**
- **What areas should the regulator focus on to reduce unwanted/illegal behaviour and problem gambling rates?**
- **Are there more efficient methods of recovering costs from the class 4 sector than the current gaming machine-number based model?**

Problem gambling

Non-casino gaming machine participation decreased from 28 per cent in 1990, to 18 per cent in 2000, and 14 per cent in 2012. Risk factors (weekly or more participation) for total continuous gambling activities (which include gaming machines) also decreased during this period from 18 per cent in 1991, to 10 per cent in 1999, and 6 per cent in 2012.

There was a reduction in annual participation on gaming machines for pubs from 2012 to 2013 (8.9 per cent versus 11.5 per cent), but no change for clubs. There were no other changes up to 2014 for either pubs or clubs on monthly or annual participation.

Non-casino gaming machines

The harm associated with electronic gaming machines is higher than for most other forms of gambling. For example, the 2012 National Gambling Study found an odds ratio of 56.36 for the association of non-casino gaming machines and problem gambling compared to 4.39 for Lotto. This means the risk of problem gambling is significantly higher for non-casino gaming machines than for Lotto. Approximately 14 per cent of adults (462,140 people) report having gambled on non-casino gaming machines. It is estimated that 12.2 per cent of adults gambled on pub machines (402,722 people) and 5.7 per cent (188,157) on club machines.

In 2012, the prevalence of problem and moderate-risk gamblers amongst non-casino machine gamblers was 2.7 per cent (or 12,477 people) and 8.7 per cent (40,206 people) respectively. More recent results for 2014 indicate that electronic gaming machine gambling (casino, pub, club) increased the risk of developing gambling problems by 5 times. This suggests that the prevalence of moderate-risk and problem gambling associated with electronic machine gambling has not changed significantly since 2012. The specific prevalence results will be available later this year.

Figures for 2012/13, 2013/14, and 2014/15 indicate that approximately half of the number of people presenting to Ministry of Health-funded problem gambling intervention services for help identify non-casino gaming machines as causing them problems. This is by far the largest group of clients associated with a particular gambling mode, and has not changed significantly over this time period.

In 2015, gambling expenditure for non-casino gaming machines was \$818 million. Based on annual self-reported expenditure, estimates from the 2012 and 2013 National Gambling Study suggest that approximately 50 per cent of total expenditure for this sector comes from the combined low risk/moderate/ problem gamblers, and approximately 30% of total expenditure comes from the combined moderate/problem gambling group. The figures for 2014 suggest these proportions have decreased slightly, however another year of data collection is required before this downward trend can be confirmed.¹⁴

Questions:

- **What is your experience of any changes in harmful gambling behaviour over time?**
- **What is your view on the class 4 sector's approach to problem gambling?**
- **Do you have suggestions for how problem gambling could be reduced or better managed, i.e. how can both the legislation and practice (e.g. compliance procedures, good host responsibility measures) be improved?**

¹⁴ "The severity of gambling problems is classified using the Problem Gambling Severity Index (PGSI). Low risk gamblers score 1-2 problems on the PGSI, moderate risk gamblers score 3-7, and problem gamblers score 8 or more". Ferris, J. & Wynne, H. (2001).

Non-club class 4 gambling sector

The sector has declined since 2003 in terms of numbers of class 4 societies, venues and gaming machines. Some say this has led to a mature and efficient sector, with the passing of the Gambling Act 2003 driving significant efficiencies into the sector. For example, there is now more money being spent on fewer machines. The introduction of a minimum rate of return of funds back to communities also led to further efficiencies. Participation rates for gambling on gaming machines have also decreased.

There are some advantages to the current number and diversity of non-club societies. It provides a “grass roots” funding model that is responsive and well connected to community needs. Grant recipients have noted they appreciate the fast turnaround of grant applications, and the ability to seek funding from multiple societies. However, having 38 societies also means that the system needs to support the operational costs of multiple organisations, and there is potential for a number of societies to compete for high turnover venues.

Questions:

- **Do you think there are an optimum number of non-club societies, venues and machines that would maximise sustainable funds to the community, while minimising harm from gambling? What would this be?**
- **What criteria do you think should be considered to determine the optimum number of non-club societies?**
- **What are the advantages and disadvantages of a larger non-club sector versus a smaller non-club sector?**
- **What are the advantages/disadvantages of large vs small non-club societies?**

Non-club venues and their relationships with non-club societies

Along with machine numbers, non-club venue numbers have decreased significantly since the introduction of the Gambling Act in late 2003. For instance, in June 2005, there were 1,801 non-club venues in the sector. There are now 961. Other factors have also impacted on the decrease in venue numbers. For example, the banning of smoking in pubs and bars, the Sale and Supply of Alcohol Act 2012, and amended drink driving limits have had an impact on the wider hospitality sector.

Non-club societies need venues to host their gaming machines in order to generate net proceeds for distribution to communities. Non-club venues that host gaming machines are reimbursed for the cost of hosting them. This system can create competition between non-club societies for venues, especially high turnover venues, as they generate more funds for non-club societies to distribute. This can, in some cases, result in risks of venues using venue market power to effect ‘grant capture’, or improper inducements to attract a venue. For example, a venue hosting the gaming machines of a particular non-club society may have expectations that the society will give grants to groups associated with the venue owner.

The Government recently agreed to a new non-club venue payment regime, which will be in operation from October 2016 and be based on commission. The commission will be calculated as no more than 1.28 per cent of venue turnover on a weekly basis, and not exceed an annual limit of 16 per cent of gross gambling machine proceeds, excluding GST, per non-club venue. This model aims to be more fair and transparent, to remove some of the issues around competition for venues, and is likely to reduce compliance costs.

Some people have expressed concern that the new regime may incentivise some non-club venue operators to reduce or ignore their responsibilities with respect to prevention and minimisation of gambling harm. This is because the greater turnover a venue has, the more they get paid. Conversely, other people consider that under the new system, non-club venues will be adequately funded to provide sufficient resources to increase supervision and manage their gaming environments better.

Questions:

- **Do you think the relationship between venues and societies can create problems? If so, what problems and why?**
- **Are there alternative approaches to the venue/society relationship that may reduce these problems?**
- **Is competition for venues between societies desirable? Why?**
- **What changes in the commercial environment for venues may have implications for their ability to host class 4 gaming machines?**

Clubs

Club societies are different to non-club societies because they host their own machines. Clubs also apply most of the funds from gaming machines to their club's approved purposes. They are subject to the minimum rate of return regulations, but at a lower rate than non-club societies. Although not required to, some clubs do distribute some of their gambling proceeds back to the wider community.

Changing demographics and declining club memberships have led to many clubs struggling to survive. Therefore, unlike non-club venues, two or more clubs can merge into one entity. If two or more clubs want to merge, they have to become a single club that operates at a single class 4 venue. So two clubs cannot merge and then operate in multiple venues. The merging clubs can keep their gaming machines and move them to the new venue. However, the new number of machines cannot exceed 30.

Clubs have to apply for consent from their council if they want to merge. Clubs must then gain permission from the Minister of Internal Affairs to merge, and for any increase in the number of gaming machines to be hosted in one venue.

There is anecdotal evidence that the club sector is declining, with clubs closing and membership rates down because of changing demographics and consumer preferences. However, many clubs are adapting and merging into larger entities to remain financially viable, some very successfully.

Questions:

- **How do you see the future of clubs and their operation of gaming machines? For example, how will demographic changes affect clubs' membership?**
- **Should clubs be supported to remain sustainable? If so, how?**

Class 4 funding to communities

Minimum rate of return

In order to gain a licence, the primary purpose of a class 4 society must be to raise funds for an authorised purpose. Non-club societies are required to return a minimum of 40 per cent of GST-exclusive gross proceeds to communities from class 4 gambling. In 2015, the average rate of return to communities by societies was 40.4¹⁵ per cent. A number of non-club societies are currently returning funds to the community above the minimum rate of return.

The minimum rate of return was set to rise in September 2016, but a recent Government decision has kept it steady at 40 per cent. This decision was made because non-club societies have recently faced increased cost pressures such as downloadable jackpots, changes to bank notes and increased gambling fees. Increasing the proportion of proceeds given back to communities on top of the increased cost pressures may have forced non-club societies to shed venues or exit the sector, which could have had a corresponding impact on the level of community funding available.

Questions:

- **Is a minimum rate of return the best way to maximise funds to the community?**
- **If not, can you suggest alternative tools to a minimum rate of return to maximise community returns?**
- **Do you have any suggestions on how society costs could be lessened to improve the return to communities?**

Grants Process

Apart from minimum requirements for grant application forms set out in the *Gambling (Class 4 Net Proceeds) Regulations 2004*, non-club societies are able to develop their own grant application processes. Some grant recipients have advised that some non-club societies have good application processes that are easy to follow. However, we are also advised that some non-club societies have lengthy and difficult application processes that could act as a deterrent to potential applicants that may not have the awareness, resources or knowledge to complete the application process.

There is also concern from some in the class 4 sector that not everyone in the community is aware that funding from class 4 proceeds is available, or they may not know how/be able to apply for it.

¹⁵ This is a provisional figure as the 2015 data is yet to be confirmed following audit and/or processing due to retrospective adjustments that societies can apply.

In order to try and make the process transparent non-club societies are required to publish information about all applications received, and whether or not the applications were accepted or declined.

Questions:

- **What is your experience of the grants process (e.g. application, notification, etc)?**
- **Do you think the process is accessible for everyone?**
- **How efficient do you think the process is?**
- **How fair and transparent do you think the process is?**
- **Do you have any suggestions for change that would benefit the community's ability to gain grants funding?**

Distribution of grants funding

As mentioned above, non-club societies must distribute a minimum of 40 per cent of their GST-exclusive gross proceeds from their gambling operations to the community. For non-club societies, authorised purpose is:

- a charitable purpose; or
- a non-commercial purpose that is beneficial to the whole or a section of the community.

The definition of authorised purposes is broad, and allows non-club societies to decide how the community will benefit from the funding. Non-club societies can choose to have broad authorised purposes that benefit a wide range of community groups, or they can choose to have a narrower or single authorised purpose, where the funding benefits a particular group or area of the community.

Figure 4 illustrates the amount of community funding being allocated to different categories of organisations and groups within the community for the period 2006 to 2015. Amateur sports receives a high proportion of the funding – many people see this as good use of the funding as it is likely to reach grass roots organisations and children's sport, and may encourage higher rates of participation in a wide range of sporting and recreational activities. Some organisations have suggested, however, that there are many other community needs that could benefit from a higher proportion of community funding.

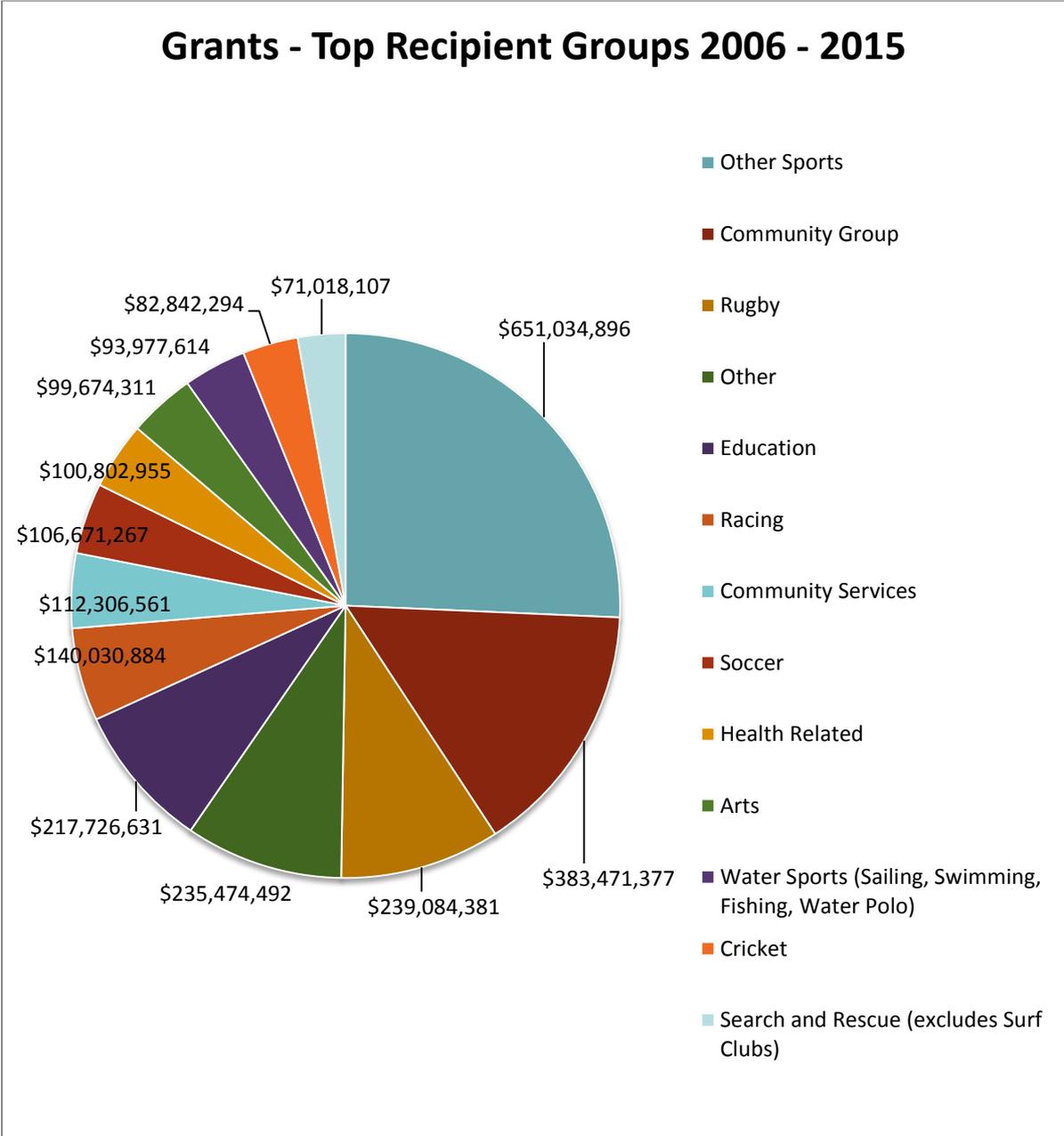


Figure 4: Grants – Top Recipient Groups 2006-2015

As shown in Figure 5 below, over the last 10 years each grant recipient category listed has received a reasonably consistent percentage of the available community funding. Some areas have seen a slight fluctuation or an increase in funding over this time. However, racing has seen a decline in funding over the last five years.

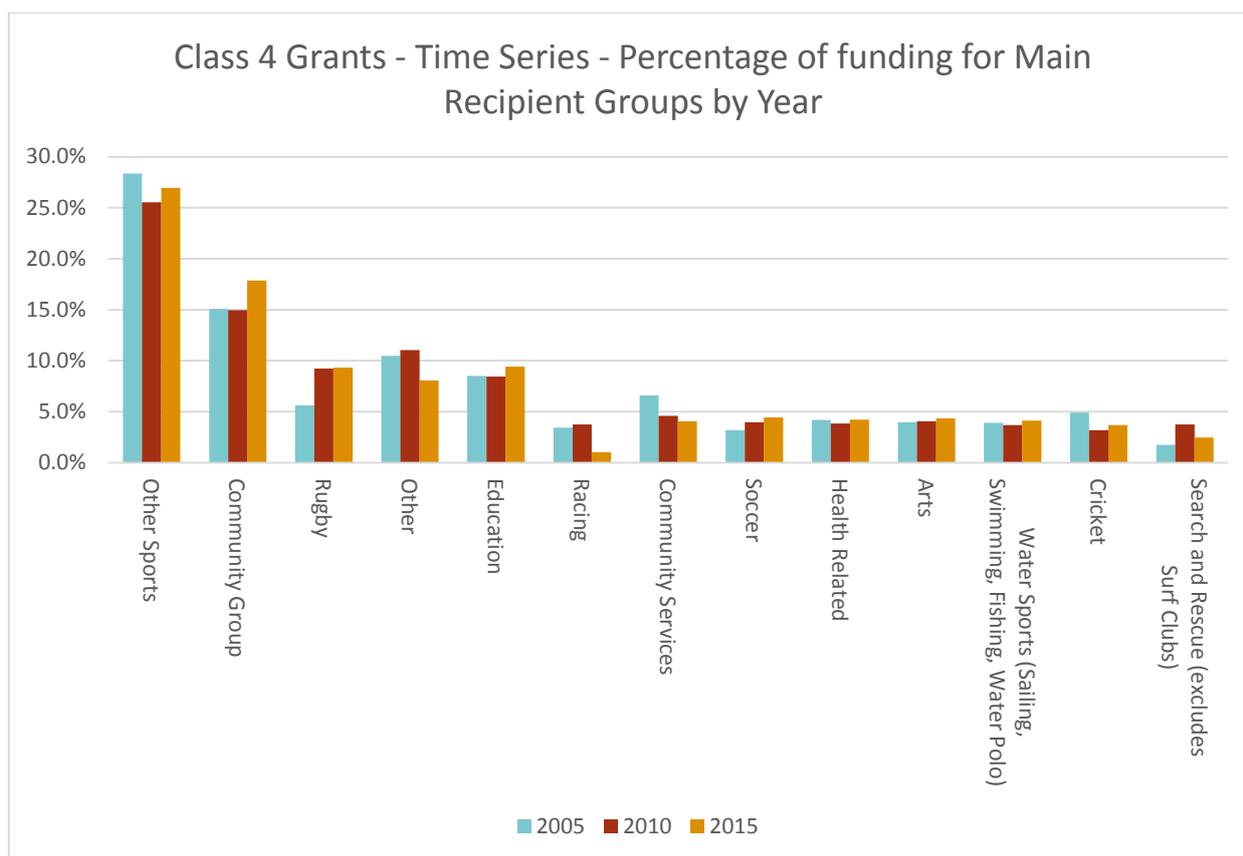


Figure 5: Class 4 grants time series – Percentage of funding for main recipient groups by year

Research on New Zealand attitudes to gambling in 2012 found that 64.5 per cent of participants were happy or largely happy (but with some doubts) about the distribution of funding. This was a similar figure to that expressed in a survey in 2005. Most people (85 per cent) were in favour of gambling proceeds going to the community, however they did not like the idea of gambling proceeds being used for business profits (74 per cent) or government revenue (73 per cent).

Questions:

- **What are your views on the current legislative settings around societies' authorised purposes?**
- **Do you think the funding from class 4 gambling is achieving the maximum impact for the community?**
- **If not, why and what could change?**

Diverse community needs

In our discussions with the class 4 sector, some people voiced concern that class 4 funding is increasing inequalities in communities because significant expenditure on gaming machines is originating from low-deprivation areas, but is not necessarily going back to community organisations that support people living in those areas. There is a perception that the funding is delivering more benefits to middle-to-high income communities instead.

Some of the recipients of funding we talked to had concerns that community organisations in low-deprivation areas may not have the knowledge of the funding or the resources to apply for grants funding and therefore may be missing out. They noted that it took applicants a lot of time and energy to build up knowledge of the different non-club societies, the different purposes those non-club societies applied the funding to, and the different application processes.

In the past few years some non-club societies have been making an effort to ensure the funding is going back to the community it originated from; however this is not currently a requirement. We also understand that some non-club societies are providing support and guidance on the application process to people seeking funding.

National organisations have raised issues with non-club societies providing funding solely to local organisations, as they think that there are other ways to distribute funding to make sure it reaches communities. Currently many national and regional organisations apply for the funding and distribute it across the country to local offices or groups/clubs, or use it to develop coordinated national or regional approaches. Preventing national or regional bodies from applying for the funding could lead to unintended consequences such as local offices or groups missing out on funding because they are not set up to apply for it, or inhibiting coordinated national or regional approaches.

There are also some organisations that provide programmes on a national basis, but where people from all across the country can attend, benefiting a wide range of communities. If these national organisations missed out on being able to access the community funding then people who struggled to pay to go to these national programmes may miss out on the benefits.

Questions:

- **Should societies return funds to the communities where they were generated? Why?**
- **Overall, do you think the distribution of funding is equitable?**
- **If not, why and what could change?**

PART III: Online gambling

This section covers issues wider than the review of class 4 gambling. We are taking the opportunity to find out how people feel about online gambling across all classes of gambling and its future in New Zealand. Please note that the Department is currently undertaking a project relating to offshore racing and sports betting. The Department will make sure that the two pieces of work complement each other as much as possible.

Currently there are two providers of online gambling in New Zealand, the NZRB offers online racing and sports betting including live sports betting (through the TAB), and the New Zealand Lotteries Commission (Lotto NZ) sells some of its products online. It is illegal under the Gambling Act 2003 to organise, manage, or promote any other source of online gambling (referred to in the Act as ‘remote interactive gambling’) in New Zealand.

Both Lotto NZ and the TAB provide a range of online gambling products, and the minimisation and prevention of gambling harm is a key consideration in the development and provision of these products. The regulatory burdens for these providers are relatively low because their gambling products have a lower risk profile and both are statutory bodies with government appointees.

New Zealanders gambling online with Lotto and the TAB has increased in recent years, though online participation still remains at a lower rate than participating in-person at Lotto outlets or TABs. In 2012, 4.3 per cent of the adult population gambled online using New Zealand products.¹⁶

Compared with other countries, New Zealand has a narrow range of online gambling options. For example, the United Kingdom’s online gambling options include casino games, society lotteries, betting activities and Bingo games. However, Australia has a similar range of online options as New Zealand, with online casino-style games illegal. The Australian government also recently decided not to allow the online equivalent of “scratchies”.

New Zealanders are not, however, prohibited from gambling with offshore online providers. For example, a growing number of New Zealanders are using offshore online betting services (e.g. Bet 365), which offer a wider range of betting products, such as sports betting, casino games, poker, slots, scratchcards and bingo.

Offshore providers are likely to have a competitive advantage over New-Zealand based products because they operate purely commercial businesses, without the requirement (for Lotto and the New Zealand Racing Board) to make returns to their communities, and they have different tax and duty obligations. In addition, some of the off-shore providers have an advantage from the scale of their operations and often can provide better odds.

¹⁶ The Health Promotion Agency’s 2012 Health and Lifestyles Survey.

The number of online gambling products overseas is growing rapidly, as is the use of those products in overseas markets. In 2013, online gambling had an internationally estimated gross profit of US\$35.3 billion and the future prediction is that online gambling will grow at a rate of 10.6% between 2014 and 2018¹⁷.

The number of New Zealanders gambling online on overseas websites is relatively small compared to other forms of gambling i.e. from 1.4 to 1.7 per cent of the adult population in 2012. This is about 55,000 people. More recent results, for 2014 and 2015 suggest no significant changes or possibly a slight increase. Expenditure estimates for New Zealanders using off shore online gambling are limited. Based on self-reported expenditure, the total annual amounts for offshore online gambling for 2012 to 2014 range between \$14.6 million to \$47.6 million¹⁸.

As a nation we are increasingly using online tools for personal use such as shopping, banking and socialising. Having an online presence is becoming more important to businesses to remain competitive.

There is a risk that if we retain the currently limited range of online gambling products, consumers may choose to increasingly gamble on offshore sites, with a corresponding loss of benefit to New Zealand communities, and potential concerns around problem gambling and consumer protection.

If providing online gambling services was permitted in New Zealand, serious consideration would be needed about how an online gambling environment is designed and regulated. For example, it would need to be decided whether another class of gambling should be introduced, and how and at what cost it would be regulated. There would also be choices on whether to restrict the number of operators, or whether it would be an open market.

Potential harm from online gambling also needs to be carefully considered, along with issues such as identity verification and age limits. There would also need to be consideration of whether online gambling would be for-profit (with a high tax) or a continuation of the community benefit model.

Increasing online gambling in New Zealand may have implications for gambling harm. Access to gambling would become a lot more convenient, and while having access to gambling anywhere at any time may present limited risk to some people, for those that have a gambling problem this kind of access could increase harm. Ministry of Health data indicates that from 2012 to 2014 about 2 per cent to 3 per cent of clients (or 100 to 140 people) accessing problem gambling services identified offshore gambling as causing them problems. The figures are similarly low (1.5% to 2.4%) for Ministry of Health clients identifying New Zealand online gambling (Lotteries, TAB) as causing them problems.

¹⁷ Offshore Gambling by New Zealanders Study, Gambling & Addictions Research Centre, AUT University (2015).

¹⁸ Offshore Gambling by New Zealanders Study, Gambling & Addictions Research Centre, AUT University (2015).

Another disadvantage of online gambling may be the removal of socialisation. Safe gambling is a source of adult entertainment, and currently part of that entertainment includes the benefit of socialising with other people, which could be removed if people were to gamble online. Online gambling also takes away the personal interaction between the provider and the person gambling (providers can use the relationships with gamblers to minimise harm).

However, there are also advantages to shifting to an online platform for gambling products. For instance, there would be a different set of tools available to reduce harm from gambling (for example, pre-commitment to a maximum gambling spend per week). If peoples' online identity can easily be verified, it may be easier to set a range of limits to reduce harm and to enable self-exclusion across providers.

Allowing lower risk forms of gambling online could increase benefit to the community. For instance, class 3 gambling (e.g. non-government national charity lotteries through the Heart Foundation and Coastguard NZ) is currently unable to use any form of interactive device, including telephones. The Heart Foundation and Coastguard NZ have raised the possibility of supporting class 3 societies by allowing online sales. This could increase the community benefit (through greater sales) so long as an online platform can provide appropriate consumer protection and identify verification services. However, if an online platform is provided for class 3 gambling, consideration would have to be given to other classes of gambling that might want to enter the online market.

Questions:

- **Do you think the current policy settings for online gambling are fit-for-purpose?**
- **If not, how do we need to change the policy settings?**
- **Do you think other forms of gambling should be available online in New Zealand? Why/why not?**
- **If yes, what gambling products should this include and how could we ensure gambling harm is minimised?**
- **Do you think class 3 gambling operators such as the Heart Foundation and Coastguard NZ should be able to offer online lotteries?**

Part IV: Further issues/ideas

This discussion paper has set out a number of issues and questions in relation to the class 4 gambling sector. We are aware that this is a complex topic, and you may have a different view on how the issues and options should be explored. This section is an opportunity to give your feedback on any further matters you think should be covered in this review.

Questions:

- **Are there issues or questions not set out in this discussion paper that you think need to be considered in this review?**
- **Can you suggest any further options for improving the status quo that do not fit elsewhere in this discussion paper and do not increase gambling harm or drive growth in gambling?**