1. The concept of vulnerability and gambling-related harm

1.1 OVERVIEW

The conceptualisation of gambling-related harm is saliently driven by whether gambling is regulated from the perspective of public health or from the paradigm of economic considerations. The scope of what consequences are attributed to gambling and how they are measured determines how those issues are treated within any given jurisdictions and to what extent they are regulated. The vast majority of individuals are able to live around and even participate in gambling and gambling-type activities without suffering any negative long- or short-term consequences. Unlike smoking, which has been recognised to cause some harm with even only one cigarette,1 gambling participation may constitute an exciting and harmless entertainment that may even enhance the personal well-being of those who enjoy it.2 Gambling participation has been attributed to helping the elderly to minimise effects of some degenerative illnesses such as for example, Alzheimer’s or dementia.3 It may benefit some players by teaching them how to cope better with difficulties by building social networks and avoiding loneliness through developing companionships. Bingo in particular has been claimed to help with the improvement of concentration and short-term memory.4 It may

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4 Ibid.
help with educating people as to the element of chance and randomness, may teach issues associated with risk taking and most importantly it may lead to the reduction of stress through the relief of boredom and as a source of recreation.

Yet, for some people gambling becomes a dangerous pastime that leads to severe negative outcomes. On a micro level, problems with gambling affect the individuals themselves but the impact almost invariably extends to their immediate family and close social circles. This, in turn, affects society as a whole on a macro level by raising the cost of public spending. Such an increase may be required in terms of welfare benefits if breadwinners lose their jobs and are unable to provide for their families; to provide treatment for affected individuals and their relatives, or in more intangible ways, such as due to lost productivity, less willingness to give to charitable causes or the necessity to deal with potentially increased crime levels.

Why some people develop gambling-related problems and others do not remains disputed. It would be simple to blame the affected individuals for their inability to control their behaviour. The gambling industry continues to reinforce this popular perception that problem gambling and gambling disorder is primarily attributable to the weaknesses in individuals’ personalities or the lack of strength of their characters. The term ‘responsible gambling’ and the need of the players to be able to ‘gamble responsibly’ is referred to on a regular basis by the regulators, Members of Parliament when discussing the applicable laws, and by the industry itself in their advertising campaigns. Its use is so embedded within the literature that barely anyone considers its impact but it subconsciously perpetuates the perception that gambling disorder occurs primarily due to the irresponsibility of the individual concerned. Indeed, the general population still attaches stigma to those who are unable to restrain themselves, and some perceive problem gamblers as

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7 In this chapter the terms ‘problem gambling’ and ‘gambling disorder’ are used interchangeably in a generic manner for convenience purposes but it is recognised that each term stems from different screening methods that vary from each other.
people who are less intelligent or simply incapable of rational thinking. Negative opinions are expressed not only by those who do not gamble themselves or who object to gambling due to religious or other principled reasons, but also by those who gamble, even on a regular basis, but who perceive themselves as being immune to such problems. Such a judgmental attitude often recedes if the holders of such opinions develop a gambling problem, but this is not necessarily so. Some people often continue to blame themselves and fail to seek treatment out of embarrassment or fear of admitting to having a mental health issue. Some take the opposite approach and absolve themselves completely from any responsibility by blaming the gambling products. It has been recognised that just as cigarettes and alcohol have addictive properties, gambling’s structural and psychosocial characteristics contribute to the development and maintenance of gambling and problem-gambling behaviour. But none of these factors alone is responsible for gambling disorders, which are caused by the combination of a multitude of factors that mix personal, structural, situational and environmental agents. Accordingly, policy decisions should be based on firm scientific evidence and a coherent strategic framework that aims to ‘minimise gambling-related harm while maximising the benefits from gambling’ (the Reno Model). However, the political discourse gravitates towards discussions and research that reflect primarily on individual pathology, with the consequence that other structural and environmental factors tend to be marginalised. It also frames gambling-related detriment narrowly, which leads to the overall underestimation of the extent of related harm, and results in a biased cost–benefit analysis. This is unsurprising in light of the decision to dispense with a regulatory containment framework, and reflects the policy makers’ implicit assertion that gambling disorders should be attributed predominantly to weaknesses in human nature that can be addressed by requiring the industry to give individuals sufficient tools to control their behaviours, deflecting attention from the impact of the

9 Ibid.
legislative choices. But it is this choice that dictates the extent and manner to which vulnerable persons are protected and determines the overall scope of the regulatory interventions. While nobody would dispute the need for policy making to be underpinned by robust empirical evidence, the research that is commissioned to produce such evidence must encompass a broad understanding of vulnerability and harm. This has not been ensured and the research agenda continues to focus on individual risk factors. This perpetuates the desirable political construct but neglects to recognise the complexity and nuanced nature of the discourse.

The majority of jurisdictions that legalise gambling often refer to vulnerability and gambling-related harm within the legislation, but leave their meaning largely undefined. Only a small number of definitive statements are provided, and the overall scope of both terms is left to be determined by the regulatory bodies with the responsibility of minimising such harm and protecting those who may be vulnerable to it. The UK Gambling Act 2005 follows the same pattern. Section 1 of the Act sets out the overriding licensing aims that underpin the statutory regime. The third objective directs the Gambling Commission to ensure that ‘children and other vulnerable persons are protected from being harmed or exploited by gambling’.\(^{10}\) However, the definition of who those vulnerable persons are or may be or how such harm may evidence itself is missing.

This position follows a typical legislative paradigm and is, in principle, beneficial. It allows the regulatory framework to be more responsive to changes in a political environment as well as to react to new empirical data that may become available without necessitating statutory intervention. It allows for the scope of the relevant terms to be determined and adjusted in accordance with the latest scientific and psychological knowledge. However, within the gambling context, this approach suffers from many disadvantages. Empirical evidence remains inconclusive and is limited. It is primarily based on short-term and medium-term studies, and there is a relative paucity of longitudinal research. Lack of agreed categorisation of what is meant by gambling-related harm leads to substantial inconsistencies within the literature that deals with supposedly the same phenomenon. This results in the same terminology being used interchangeably to describe different experiences, and at the same time different terms are often used in discourses that address the same concepts. Secondly, lack of statutory direction allows the narrowing

\(^{12}\) GA2005, s1(c).
down of the range of experiences deemed sufficiently serious to be afforded attention to a gambling disorder, with other forms of harms being unconsciously marginalised.

Levels of gambling disorders are identified and measured by national prevalence surveys, and results from these are used to demonstrate the effectiveness of the UK regulatory regime. The headline figures compare levels of problem gambling before and after liberalisation. They demonstrate only negligible fluctuations,¹³ and some even suggest that instances of gambling harm have declined since the industry was liberalised. Similarly, comparisons made between jurisdictions with open gambling markets and those that aim to restrict or suppress gambling seem to indicate that levels of problem gambling are similar in both.¹⁴ This provides a convenient and relatively inexpensive justification to governments that wish to rationalise their policy choices. However, this fails to recognise that a gambling disorder at the end of the spectrum is not, and should not be treated as, an exhaustive indicator of gambling harm. It also fails to acknowledge that data from prevalence surveys are prone to be affected by methodological issues and the reliability of participants’ responses. Similar difficulties are also pervasive in the context of the categorisation of which groups in society, if any, are vulnerable. Most regulators, in their official rhetoric, imply that they adopt a wide and expansive interpretation, but this does not necessarily translate into any specific actions. Preventative measures of any substance are typically confined to minors and those who already suffer from an inability to control their gambling behaviour. This undermines the statements that vulnerability is treated holistically and indeed points in the opposite direction when substantive actions and regulatory responses are considered. Existing initiatives are also, for the most part, confined to enabling individuals to control their behaviour, and little attention is given to the second dimension of the causes of vulnerability, directly referring to the safety or addictiveness of the gambling products themselves. Each gambling form has a different level of risk but none is entirely risk-free.

Accordingly, this chapter considers the interrelationship between the vulnerability of individuals and the structural and psychosocial features of the gambling products. It demonstrates that existing conceptualisations of gambling harm and vulnerability are too narrow. This leads to many gambling-harm prevention initiatives being designed, but, in substance,

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¹⁴ Ibid.
they focus on the general gambling public rather than the target group of those who are or may find themselves vulnerable. In principle, this may appear to be the correct approach. However, it ignores the fact that the majority of people are able to adapt their behaviour in response to legislative changes and are capable of protecting themselves. It is the individuals for whom the adaptation process fails or may fail that should be the target of regulatory interventions, but these are precisely the people who are often left unprotected.

1.2 GAMBLING-RELATED HARM

Gambling-related harm can be conceptualised in a variety of ways. Each leads to different priorities in preventative and treatment strategies incorporated into the regulatory framework. Very few jurisdictions have attempted to offer a statutory definition of the term. The New Zealand Gambling Act 2003, section 4 defines ‘harm’ as:

(a) harm or distress of any kind arising from, or caused or exacerbated, by a person’s gambling and; (b) includes personal, social, or economic harm suffered – (i) by the person; or (ii) the person’s spouse, civil union partner, de facto partner, family, whanau, or wider community; or (iii) in the workplace; or (iv) by the society at large.

This broad and all-inclusive definition has initiated a progressive move to suppress the forms of gambling that are considered to be the most addictive, such as gambling machines (or as they are called in New Zealand ‘pokies’). However, statutory definitions are not replicated in other jurisdictions, including the UK. This leads to greater emphasis being placed on the medical harm that gambling may cause. Gambling disorder is officially recognised as a mental illness by the Diagnostic and Statistical Manual of Mental Disorders (DSM). It was first introduced in 1980 in DSM-III as pathological gambling and was treated as an impulse control disorder. DSM-IV retained this classification but the DSM-V revision introduced substantive amendments. The reference to pathological gambling was removed and the name of the condition was changed to a gambling disorder. The change in the terminology was

driven by the desire to remove the stigma that typically affects those who do not control their gambling behaviour and to emphasise that this is indeed a psychological illness. DSM-V also reclassified gambling disorder and moved it from the category of impulse control disorders into substance addictions. This was done in recognition of the existing medical knowledge that demonstrates that the behavioural and neurological brain responses of affected individuals correspond more to substance addictions than to impulse control impairments, even though no actual substance is consumed or inhaled.17

Gambling disorder is measured by the DSM-V screening test. Under this test, individuals will be deemed to be affected by the illness if they endorse four or more criteria from the list of nine in the 12-month period preceding the test, unless a diagnosis of a Manic Episode more accurately reflects the actual behaviour.18 The criteria include the following:

1. the need to gamble with increasing amounts of money in order to achieve the desired excitement;
2. restlessness or irritability when attempting to cut down or stop gambling;
3. repeated unsuccessful efforts to control, cut back or stop gambling;
4. a preoccupation with gambling (e.g., persistent thoughts of reliving past gambling experiences, handicapping or planning the next venture, or thinking of ways to get money with which to gamble);
5. gambling when feeling distressed (e.g., experiencing feelings of helplessness, guilt, anxiety, depression);
6. lying to conceal the extent of one’s involvement with gambling;
7. jeopardising or losing a significant relationship, job, or educational or career opportunity because of gambling; and
8. relying on others to provide money to relieve desperate financial situations caused by gambling.19

DSM-V screening test is not the only measure that has been developed and validated for this purpose. Indeed, the DSM-V test is still relatively new and many jurisdictions continue to refer to the previous DSM-IV criteria in their public health surveys or population-based studies. Other screening measures that are used internationally include the South Oaks

17 Ibid.
18 https://www.psychiatry.org/psychiatrists/practice/dsm
Gambling Screen (SOGS), Gamblers Anonymous’s 20 questions, MAGS, DSGS, NOD-Clip, and more. They differ in the number of questions that are being asked, how the questions are formulated, how they gauge the intensity and duration of the symptoms, and whether they also assess the social context or concurrence of other conditions. Most importantly, they capture different groups of individuals depending on different stages of the disorder’s spectrum. Some, such as for example DSM-IV, focus primarily on establishing the existence or absence of a disorder with two potential stages that operate on a continuum basis. A diagnosis of problem gambling would be reached if the affected person endorsed three or more of the listed criteria, while a diagnosis of probable pathological gambling would typically be made if five or more of the criteria are met. While this recognises the illness, it does not reflect on the journey that affected gamblers undertake before they reach the first stage of the medical condition. This, in turn, gives only a token recognition to the fact that interim forms of gambling harm may be equally acute even though they do not manifest themselves in an actual disease. While some researchers caution against including minor types of harm that may be experienced by low-risk gamblers within the overall aggregates, the progressive nature of gambling disorder means that symptoms may develop over a longer period of time and the trigger points that cause gamblers to cross the line between low-risk gambling and problem gambling are not being identified. However, adverse consequences are also experienced during the ‘incubation’ period and not only after the medical threshold has been reached. Alternatively, it has been equally recognised that gamblers may assert five or more of the criteria and yet not truly suffer complete loss of their gambling control or any gambling-related harm. The medical nature of the DSM-IV measure has also led to underestimating problem gambling prevalence rates as the screening was found to be more suited to a diagnosis in a clinical setting rather than for use in population-based studies.

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Despite these concerns, DSM-IV criteria have been chosen and continue to be utilised in the UK surveys, but, at least, in addition to the DSM-IV, participants are also screened using the Problem Gambling Severity Index (PGSI). This test not only measures the rates of mental disorder but can also identify those individuals who are at either low or moderate risk of developing such a disorder. However, none of the test is able to determine when and why low or moderate risk gamblers become problem gamblers. The latest levels of problem gambling as reported by the 2012 survey for England, the 2015 survey for Scotland and the 2015 survey for Wales were reported to be low. Amongst the overall English population aged 16 years and above 0.8% of men and 0.2% of women were reported to suffer from problem gambling under the DSM-IV criteria, and 0.6% of men and 0.1% of women satisfied the threshold under the Problem Gambling Severity Index. In Wales, the levels in 2015 were reported to be at 1.9% for men and 0.2% for women under either DSM-IV or PGSI criteria and in Scotland, the latest Health Survey for Scotland (2015) reported no problem gambling prevalence for women (0%) and 1% for men. The Gambling Commission’s latest figures also reported that 0.7% of gamblers were identified as problem gamblers using the short-form PGSI criteria in 2016.

The PGSI problem gambling scores that identified the rates of those who are at either moderate or low risk of developing gambling problems are shown in Tables 1.1 and 1.2. The overall levels of problem and at-risk gambling, as reported by the surveys, appear be declining in comparison to rates recorded in the surveys that were carried out before or shortly after the liberalising effect of the Gambling Act 2005 came into force. However, comparisons with previous years must be treated with caution. The methodology of the surveys has materially changed at critical points in time. This renders any claims that liberalisation did not affect problem gambling or that it actually helped to reduce the extent unreliable. While the screening measures (DSM-IV and PGSI) remained the same before and after implementation of the Gambling Act 2005, the vehicle of data collection has changed. Prior to the enactment of the Act and shortly

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23 Health Survey for England 2012.
25 Health Survey for Scotland 2015.
Table 1.1 Data of low- and moderate-risk gamblers from English and Scottish Health surveys

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<thead>
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<th></th>
<th>Health Survey for England, 2012</th>
<th>Health Survey for Scotland, 2015</th>
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<tr>
<td><strong>Low-risk gamblers</strong></td>
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<tr>
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<td>1.6</td>
<td>4.8</td>
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<tr>
<td><strong>Male</strong></td>
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<td>4.8</td>
<td>0.4</td>
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<td><strong>Moderate-risk gamblers</strong></td>
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<td>1</td>
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<tr>
<td><strong>Male</strong></td>
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<td>5</td>
<td>0</td>
<td>2</td>
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*Sources:* Health Survey for England 2012 and Health Survey for Scotland 2015.

Table 1.2 Data of low- and moderate-risk gamblers from the Welsh Problem Gambling Prevalence Health Survey across age ranges

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<thead>
<tr>
<th></th>
<th>Welsh Problem Gambling Prevalence Survey 2015</th>
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<tr>
<td><strong>Low-risk gamblers</strong></td>
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<td><strong>Age groups</strong></td>
<td>Female (%)</td>
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<td>3.4</td>
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<tr>
<td>25–34</td>
<td>3.4</td>
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<tr>
<td>35–44</td>
<td>3.8</td>
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<tr>
<td>45–54</td>
<td>1.8</td>
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<tr>
<td>55–64</td>
<td>0.7</td>
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<tr>
<td>65–74</td>
<td>0.7</td>
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<tr>
<td>75+</td>
<td>0.4</td>
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<tr>
<td><strong>Moderate-risk gamblers</strong></td>
<td></td>
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<tr>
<td><strong>Age groups</strong></td>
<td>Female (%)</td>
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<td>16–24</td>
<td>0.9</td>
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<tr>
<td>25–34</td>
<td>0.6</td>
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<tr>
<td>35–44</td>
<td>1.4</td>
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<tr>
<td>45–54</td>
<td>0.6</td>
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<td>55–64</td>
<td>0.7</td>
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<tr>
<td>65–74</td>
<td>0.7</td>
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<tr>
<td>75+</td>
<td>–</td>
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after, the data was collected using British Gambling Prevalence Surveys that targeted gamblers to obtain their insights into gambling behaviours and attitudes. However, after 2010 the collection of gambling prevalence data via bespoke national gambling surveys was discontinued and replaced with sections incorporated into the wider Health Surveys for England and Scotland and the Welsh Problem Gambling Surveys. This change of data collection method is not without its consequences. Different screening measures produce different estimates, but this equally applies to different vehicles as each will capture varying groups of

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individuals. It has been specifically highlighted in the Health Survey for England 2012 that ‘an experiment conducted in Canada showed that gambling screens included within Health Surveys typically generate lower rates of problem gambling than gambling specific studies’. Additionally, the three surveys are not jointly co-ordinated. Their findings are reported in different years, refer to different cohorts of surveyed individuals and they do not even employ the same reporting methodology. This makes it very difficult to analyse the findings at a national level and to compare it with previous years.

Similar patterns can be seen in the context of children. The majority of screening tests were developed with the intention of using them to diagnose adults and their unsuitability for use with minors was quickly established. The diagnostic criteria were modified to produce DSM-IV-MR-J to be used with children and adolescents. Under the modified version, a minor would be classified as a pathological gambler if he or she endorsed four or more of the criteria from the following list:

1. preoccupation with gambling;
2. need to gamble with increasing amounts of money in order to achieve the desired excitement;
3. experiencing restlessness or irritability when attempting to cut down gambling;
4. using gambling as a way of escaping from problems or relieving dysphoric moods;
5. after losing money gambling, often returning another day in order to get even;
6. lying to family members or others to conceal the extent of involvement with gambling;
7. often spending more money on gambling than intended;
8. committing anti-social or illegal acts, such as spending fares/dinner money or stealing from family or from outside in order to finance gambling; and
9. falling out with family, or disrupting schooling because of gambling (truancy).

There are also other screens that were developed specifically for the use with minors but they are all modelled on their adult equivalents. These

28 Health Survey for England 2012, p. 129.
include the Canadian Adolescent Gambling Inventory, the Gambling Expectancy Questionnaire and NLCLiP.

In the United Kingdom, the rates of pathological gambling and at-risk gambling amongst children up to the age of 16 years old are measured by a research study referred to in this book as Young People Omnibus. It is the sole study that is carried out in schools on a recurring basis that collects data reflecting the variety of behaviours and opinions of a statistically representative sample of children aged between 11 and 16 years old. The Young People Omnibus report titled ‘The Prevalence of Underage Gambling: A Research Study Among 11 to 15 Year Olds on behalf of the Gambling Commission’ aims to identify the prevalence of underage gambling and the incidence of problem gambling within this age group. The most recent survey was published in November 2016. The main findings identified the proportion of children aged between 11 and 16 years old who gambled in the seven days preceding the survey; the rates of problem gambling; the profile of those who are engaged in gambling; the most popular forms of gambling and how children purchase lottery tickets despite them not being legally allowed to play. The latest findings indicated that 0.4% of children aged 12 to 15 years old were classified as problem gamblers (in comparison to 0.6% reported in 2015 and 2% reported in 2008/2009), 1.5% as at-risk gamblers (in comparison to 1.2% in 2015 and 3.4% in 2008/2009) and 10.2% as social gamblers (in comparison to 13% in 2015).

Similarly to the adult surveys, these headline figures seem very optimistic as they appear to indicate that the rates of problem and at-risk gambling have substantially fallen, despite the significant increase in gambling opportunities that have occurred since 2007. However, concerns identified above in the context of adult gambling prevalence surveys also apply to children’s surveys. The Young People Omnibus 2014 not only changed the screening measure from the bespoke Ipsos Mori Multi-Client Young People test utilised in 2008/2009 to the DSM-IV-MR-J criteria, but it also significantly reduced the sample size from 8,958 to 2,522 participants. The adoption of a different test already, by itself, prevents reliable comparisons. This has been further exacerbated by the choice to use the adapted DSM-IV-MR-J measure. This choice was surprising. Reliable evidence pointed out that DSM-IV

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criteria substantially underestimated problem gambling prevalence rates, even when the test was used with adults as intended but outside clinical settings. This problem is likely to be even more acute if the test is utilised for screening children, despite the test’s adaptation. Indeed, Pelletier et al., who studied children’s understanding of the DSM-IV-MR-J criteria, reported that 23% of the questions used in the test were misunderstood by the participants.32 This may have led to incorrect answers being given, which undermines the credibility of comparisons between different reporting periods.

Moreover, the overall reliability of any of the gambling screening measures is not without its own controversies. Unlike substance use or abuse that can be detected and measured by verifiable medical tests, gambling screens invariably have to rely on cognitive measurement techniques. This means that they effectively measure what the players and non-players say about their gambling conduct and how it impacts on their personal well-being, but this may not always correspond accurately to their actual behaviour.33 Recollection lapses, unwillingness to admit to having a problem, not recognising lack of control within one’s own behaviour, not fully understanding the screens’ questions, trivialising or exacerbating one’s issues are only a few examples of factors that may contribute to the variations between personal accounts of the symptoms and the realities.34 The methods of carrying out the surveys also typically mean that many groups of vulnerable persons, such as the homeless, those who are detained or those who are hospitalised, are excluded from participation and many groups from underprivileged backgrounds are often underrepresented. This in turn is likely to contribute to the underestimation of the overall scale of the problem.

The cumulative effects of the changes introduced into the survey methodologies and concerns regarding the reliability of problem gambling data collection may have caused ‘paper-based’ headline figures to appear lower, but this may not necessarily reflect an actual reduction in gambling-related harm. In light of the substantial change to the gambling regulatory regime introduced by the Gambling Act, it is rather unfortunate that the Gambling Commission did not insist on preserving

the continuity of the data collection methodology, precisely to ensure that reliable comparisons could be made. To a cynical eye, the timing of the changes to methodologies known to produce lower problem gambling estimates may be construed as an intentional attempt to hide the real impact of gambling liberalisation on the extent of gambling-related harm. While this allegation is unlikely to hold true as most alterations were probably caused by financial restrictions, they undoubtedly complicated the independent scrutiny of the impact of regulatory changes. It also rendered any arguments that liberalisation did not negatively impact on levels of gambling harm based on those surveys unreliable. Planzer and Wardle complained that ‘there is no published empirical evidence that directly addresses the comparative effectiveness of regulatory approaches to gambling’ and that ‘there is extreme paucity of empirical evidence that addresses related questions’. The UK modifications during the transition period in data collections have meant that the opportunity for such verifiable evaluation on a longitudinal basis is permanently lost.

National problem gambling prevalence rates should only ever be treated as ancillary evidence, as opposed to the main mechanism of measuring gambling-related harm. National surveys are only capable of evaluating deterrents on a macro level, whereas harm manifests itself more acutely on a micro level and differs between individuals. A distinction can be made between those harms that are of a social/psychological nature and those that are financial/economic. While they often affect the individuals concurrently and one may lead to the other, this is not inherently so, as some people may experience negative psychological issues without necessarily suffering financial harms, and vice versa. Harms that stem from uncontrolled gambling behaviour have probably been most comprehensively summarised by the Joint Committee on the Draft Gambling Bill. They can be divided into those that primarily affect the individuals themselves and those that affect the general public. However, individual harms also extend to the family, relatives and friends of the affected person, and include job loss, absenteism, poor work/study performance, stress, depression and anxiety, suicide, poor health, financial hardship, debts, asset losses, exposure to loan sharks, bankruptcy, relationship breakdown, domestic or other...

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36 Joint Committee on the Draft Gambling Bill, Draft Gambling Bill (HL 2003-04, HL63_I/HC139-I) paras 216–221.
violence’.37 Many of these consequences are often experienced not only once the gambling disorder has fully absorbed the individual but also in the interim periods.

Children of parents who have a problem with their gambling are often the ones that suffer most. This may be due to feelings of neglect or lack of parental support or to the overall breakdown in the parent–child relationship.38 During arguments that may persist in affected households, the children’s suffering is often overlooked and may remain unnoticed for prolonged periods. This may occur at a time when the support needed for the development of a healthy and emotionally balanced individual is at its highest39 and symptoms may be confused with typical adolescent behaviour. At a more extreme level, gambling problems may lead to increased rates of domestic violence as well as other forms of physical or mental abuse.40 News from a variety of countries, including the United Kingdom, reporting children being left abandoned in cars outside casinos or betting venues when parents or guardians lose themselves in a game seem to occur somewhat too often to be seen solely as isolated and very rare incidences.41 Significantly less serious but not less important are instances where children are affected simply because they worry about their parents or the overall situation at home. As one pupil from the focus groups explained: ‘my mum keeps crying but my dad will not look for help, he says he doesn’t need it’ (Ángel, 17, f). Another participant became visibly distressed when describing a situation relatively close to home, even though it was not in connection with his nuclear family: ‘I know someone, he lost all my dad’s parents money through gambling, he had a gambling addiction’ (Garry, 14, m). Harms that young people have

identified themselves in a study carried out by Raisamo et al.\textsuperscript{42} highlighted the broad impact that difficulties with gambling may cause. Harms such as ‘feeling guilty or shameful’, ‘having problems with social relationships’ or ‘suffering disruption of family life and daily rhythm’\textsuperscript{43} often affect minors, not only when they have gambling problems themselves but also if the problems are suffered by their parents or another significant person in their lives. This further extends to harm that may be suffered by the general public if affected individuals commit crimes or other anti-social behaviours to fund their gambling addiction or require access to medical treatment that may affect accessibility to other public services.

1.3 ARE SOME PEOPLE MORE VULNERABLE TO GAMBLING-RELATED HARM THAN OTHERS?

The above question, as currently phrased, is somewhat of a misnomer. It has been stated in this manner to highlight the limitations, frequently present within the literature, of equating gambling-related harm with problem gambling. This is because while such harms stem from gambling disorder, they are not confined to it, as noted in the previous paragraph. They affect not only individuals who suffer from the disorder but their families, relatives and friends, who may suffer as a result of a person close to them being afflicted by problem gambling. They may be affected in a very remote manner if due to the need to treat gambling addictions or pay more welfare benefits, less resources are available for treatments of other conditions or for other public spending. But as anyone can be affected in this way and, accordingly, potentially vulnerable, the answer to the question as phrased would have to be a simple ‘no’.

Consequently, it is more meaningful to ask whether some people are at a higher risk than others of developing a gambling disorder itself. The UK third licensing objective presupposes that some people are more susceptible. However, with the exception of children, neither the Act nor any other legal instrument specifies who is or who should be considered to be vulnerable. By definition, it was not meant to extend to the whole population. It could not have been intended to be confined to children either as there would be no need to specifically list vulnerability as a


\textsuperscript{43} Ibid.
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separate characteristic. This must be taken to mean that vulnerable people are thought to represent a sub-group of the whole population. However, vulnerability is not a static condition but a political construct that determines whether it is defined against the background of social exclusion, personal characteristics, external influences or a combination of all of them. Accordingly, vulnerability may be experienced by anyone during their life’s trajectory, which often leads to the development of mental conditions unless mitigated by help received through social networks or companionships. Despite this overreaching principle, socio-legal and psychological discourses often focus on identifying particular characteristics that are deemed to increase the risk of developing gambling disorders. Most of them are attributed to the personal propensities of the individuals and only some refer to the structural characteristics of the gambling products or to the environment in which gambling is offered.

Children are the only group of people who have been specifically classified by the Gambling Act itself as being particularly vulnerable to gambling-related harm. Under the Act a child is defined as anyone who is under the age of 16 years old, whereas a young person is someone who is between 16 and 18 years old. The legal age of majority in the United Kingdom is attained when a minor reaches his or her 18th birthday, and at this point they become adults. The decision to single out children was well justified. Not all children are vulnerable and youngsters typically benefit from high levels of natural recovery rates, but empirical evidence undisputedly places them at a significantly higher risk of developing gambling disorder than is the case with adults. ‘[E]arly onset and adolescent gambling involvement can be a harbinger of later gambling problems’, and those who suffer from problem gambling

45 Ibid.
during their adulthood nearly always report that they started gambling early.\textsuperscript{48} Not only does the likelihood of developing problems increase the younger the age of initiation, but the number and severity of adverse consequences in later life also rises.\textsuperscript{49} Some of the negative outcomes, such as the possibility of getting an early criminal conviction or having a low educational status, are particularly acute as they are very difficult to overcome during adulthood and have the potential to cause long-lasting and often irreversible damage. It is accordingly unsurprising that those children who are pathological gamblers during minority are also much more likely to have problems with their gambling during adulthood.\textsuperscript{50} Retrospective studies of pathological/problem gamblers tend to indicate that their gambling initiation was between the ages of 10 and 11 years old,\textsuperscript{51} and the typically transient nature of gambling problems does not sufficiently mitigate the risks.\textsuperscript{52} Children’s vulnerabilities are grounded in their limited life experiences and knowledge, and limited cognitive abilities.\textsuperscript{53} These are natural and unavoidable features of being young and apply to all children, even though the actual extent significantly varies between different individuals. A large proportion of minors will, in time, acquire the required level of competence to make adequate choices.\textsuperscript{54} Those who do not tend to develop problematic gambling behaviour because: (1) they have been ‘behaviourally conditioned’ to become interested in and develop an unhealthy attachment to gambling; (2) they use gambling as a mean of escape; or (3) they are or become ‘anti-social,\

\textsuperscript{51} Ibid.
\textsuperscript{52} WS Slutske, K Jackson, KJ Sher, ‘The Natural History of Problem Gambling from Age 18 to 29’ (2003) 112 Journal of Abnormal Psychology 263.
\textsuperscript{53} M Hume, GS Mort, ‘Fun, Friend or Foe: Youth Perception and Definition of Online Gambling’ (2011) 17(11) Social Marketing Quarterly 109.
\textsuperscript{54} A Blaszczynski et al., ‘Operator-Based Approaches to Harm Minimisation in Gambling: Summary, Review and Future Directions’ (RGT 2014).
compulsive gamblers'. Behavioural conditioning starts at home but is strongly affected by the external environment, which includes cultural values, religious convictions, levels of societal complexity and the legal positioning of the activity within the jurisdiction. This is where the 'normalisation' of gambling caused by the legislation plays an important part.

Children’s participation in gambling is highly influenced by the gambling behaviour and attitudes of parents/guardians, but also by other family members with whom they may be close, such as grandparents, uncles and aunts. Nobody can nor would anyone want to shield children entirely from growing up or from experiencing some negative life encounters, and in the vast majority of households, parental supervision will successfully protect minors from long-term negative consequences resulting from issues experienced during adolescence. But this is not invariably so, especially in the context of gambling. There is ample evidence that parents transmit gambling patterns onto their children. Direct influence arises from children copying the behaviour of the parents if they gamble with their children’s knowledge, or from an actual introduction to gambling in the form of, for example, explaining the games’ rules, showing them how the games are played, purchasing gambling products such as lottery tickets or betting slips on their behalf or even gambling with them. Indirectly, positive attitudes towards gambling within the home environment and externally normalise the activity so that it is seen not as a potential vice but as a form of fun and legitimate entertainment. Children of parents who gamble or who think that their parents gamble, are more likely to be engaged in gambling themselves. They are also less likely to express negative attitudes towards gambling. Such a position prevails even if parents attempt to discourage their children from gambling, presumably because behavioural examples are always more influential than verbal instructions or reprimands. This

may also explain why children of gambling parents who adopt inconsistent disciplinary methods or who do not monitor their children’s leisure activities or whereabouts are also more likely to gamble than others. On the other hand, the general monitoring and imposition of overall discipline on children by non-gambling parents significantly mitigates the likelihood of children taking up gambling activities by themselves. It is not only gambling participation that can be transmitted between generations within a nuclear family but gambling problems as well. Vachon et al. identified that the children of fathers who suffer from severe gambling problems have a substantially increased risk of developing a similar disorder, even though no such association was established between mothers who have a gambling problem and their children.

The transition from childhood into adulthood does not occur instantly, and while the legal age of majority in most jurisdictions, including the UK, has been set at 18 years of age, cognitive abilities and levels of understanding continue to develop until the age of 21. Accordingly, it is not only children but young people as well who are at increased risk of gambling-related problems. Indeed, the longitudinal study carried out by Delfabbro et al. highlighted that gambling engagement in late adolescence represents a more accurate predictor of future participation than is the case with younger children. Even the national gambling prevalence surveys consistently demonstrate the highest levels of problem gambling amongst those who are within the 25–34 age group. The progressive nature of the gambling disorder means that many of those in this age category are likely to have started when they were well below the age of 25. Those in the age group of 16 to 24 typically represent the second highest group of problem gamblers and the highest group for those who are at risk. Despite that, the statutory definition of who is vulnerable only explicitly includes children, to the exclusion of young persons. Young people may still fall into the more generic category of those who are

61 Ibid.
64 Health Surveys for England, Health Surveys for Scotland, Welsh Problem Gambling Prevalence Surveys.
65 GA2005, s 1(c).
vulnerable, but this cannot be guaranteed. One of the immediate consequences of this omission can be seen in the lack of specific data for young persons. The Young People Omnibus targets children and the national surveys includes 16 and 17 year-olds within the broader 16 to 24 age category. This makes it impossible to estimate gambling prevalence amongst those who are still lawfully not allowed to participate in most forms of gambling but who are coming close to the legal age of majority. It also prevents the identification of any issues that may be specific to this age group and does not allow us to ascertain the specific impact of lotteries, football pools and scratchcards, which are permitted from the age of 16.

Other risk factors are more generic. Being of male gender or having pre-existing vulnerabilities in information processing powers have all been found to increase the risk of developing problem gambling. The existence of concurrent other delinquency also give rise to a strong association with problem gambling. High comorbidity rates exist between gambling and other risky behaviours such as smoking, alcohol consumption, unsafe sexual practices or the consumption of illicit drugs. For example, Barnes et al. highlighted that young male moderate and heavier alcohol drinkers were more likely to be involved in gambling annually and on a weekly (or more frequent) basis than those who abstained from consuming any alcohol. While no clear correlation was found for young females, significantly more women who drank either heavily or moderately were involved in gambling than was the case for those who did not drink. The correlation between using illicit drugs and other substances and gambling amongst young gamblers, lifetime internet gamblers and

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non-gamblers was tested by Brunelle et al.\textsuperscript{70} Young gamblers were found to be consistently more likely to consume other substances such as alcohol, tobacco and speed, all of which are illegal to minors, than their non-gambling counterparts. While 76.9% of non-gamblers in the study admitted to drinking alcohol, this proportion rose to 91.3% amongst all youth gamblers and 96.3% amongst lifetime internet gamblers. For other substances, the proportions also increased: in smokers, from 26.3% (non-gamblers) to 42.6% (gamblers) and 51.5% (internet gamblers); in cannabis users, from 26.8% (non-gamblers) to 40.6% (gamblers) and 55.1% (internet gamblers).\textsuperscript{71} A systematic review of 11 different types of addictions and their co-occurrences carried out by Sussman et al.\textsuperscript{72} confirmed a significant link between gambling problems and other addictive behaviours. This does not mean that participation in gambling automatically involves engagement in other delinquent behaviour, as for some individuals gambling (or another activity) represents their only ‘vice’. It is also not clear whether gambling participation influences other misbehaviour or vice versa, or, as is more likely, all ‘vice’ activities form part of a portfolio of maladjustment. However, this demonstrates that concurrent addictions increase the vulnerability of affected individuals and expand the overall group as a whole.

Pathological gambling has also been linked with experiences of a traumatic event prior to the onset of the disorder. While no empirical data can show that such events directly led to the illness, many studies confirmed that they would have contributed to it.\textsuperscript{73} Traumatic moments may refer to childhood maltreatment or neglect, physical or psychological abuse during childhood or adulthood, domestic, date or marital violence, but they also include more ordinary but equally distressing occurrences such as experiencing bereavement or living through the


\textsuperscript{71} Ibid.


\textsuperscript{73} See e.g., R Kausch et al., ‘Lifetime Histories of Trauma Among Pathological Gamblers’ (2006) 15 The American Journal on Addiction 34; NM Petry, KL Steinberg, ‘Childhood Maltreatment and Female Treatment-Seeking Pathological Gamblers’ (2005) 19(2) Psychology of Addictive Behaviors 226.
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degenerative illness of a partner.\textsuperscript{74} Such a correlation corresponds well to the broader evidence that demonstrates that abuse victims are more vulnerable to psychiatric disorders generally and this includes problem gambling.\textsuperscript{75} This extends to other post-traumatic stress disorders that may affect individuals involved in or who witness a variety of gruesome accidents or other particularly stressful situations. The need to escape, to fill one’s emptiness or loneliness, the desire to feel like someone else and being able to avoid the ‘not good enough self’ were found to be powerful triggers for gambling addictions,\textsuperscript{76} especially in circumstances when other coping and support mechanisms seemed to have failed.\textsuperscript{77} Gambling, as a means of escape, may be particularly attractive to women as, by itself, it attracts less negative connotations than for example female alcohol consumption or smoking. It is also an activity that can be done alone. A visit to a casino with the associated buzz of visual and audio stimulants may mask the feeling of loneliness, even if only temporarily. Gambling problems are also easier to hide, at least in the initial stages of the disorder, and there is the inherent allure in the glamour of many of the gambling venues.\textsuperscript{78} Betting shops, adult entertainment centres or casinos are also places where visiting alone and staying for hours is not frowned upon, unlike, for example, in restaurants where an individual is expected to leave after the meal. They tend to be warm and have sanitary facilities that are easier to access than in many other public places. Those factors contribute to the popularity of betting venues amongst another group categorised as vulnerable, that is, the homeless. Homelessness is statutorily defined by section 175 of the Housing Act 1996\textsuperscript{79} as the lack

\textsuperscript{74} G Nixon et al., ‘Female Gambling, Trauma, and Not Good Enough Self: An Interpretative Phenomenological Analysis’ (2013) 11 International Journal of Mental Health and Addiction 214.


\textsuperscript{76} G Nixon et al., ‘Female Gambling, Trauma, and Not Good Enough Self: An Interpretative Phenomenological Analysis’ (2013) 11 International Journal of Mental Health and Addiction 214.


\textsuperscript{79} As amended.
of suitable accommodation that can be freely occupied and secured to the exclusion of others by the relevant person under either ownership or another legal entitlement. Such accommodation must be of sufficient quality to make it reasonable to expect the occupant to remain in occupation. The practical application of ‘reasonable quality’ leads to many hidden layers of homelessness that do not feature in official statistics. Those who live in hostels, those who rely on the generosity of friends, necessitating frequent moves, and those who can afford only dilapidated conditions often experience real feelings of homelessness even though they do not satisfy the statutory threshold. Amongst those who are homeless, many suffer from severe gambling problems and the proportion of those affected in this category is materially higher than is the case for the general population. While often it is the individual’s difficulty in restraining their gambling that has led to such homelessness, either by losing their home directly or by being rejected by their families, this is not always the case and sometimes it is the homelessness that leads to problem gambling.

The list of potentially vulnerable groups continues. In a study of US professional athletes and other sport persons 14% were reported to be at moderate risk of gambling problems in comparison to 4% within the general population, and 6% were deemed to be at a high risk in comparison to 2% amongst the general public. The majority of professional sport associations impose a regulatory ban on gambling by their players, either in the context of ‘connected’ events or generally. For example, in England, Regulation 17 on Anti-Corruption and Betting of the Rugby Football Union prohibits parties involved in a particular competition (or series of competitions) either as a player, coach of the players, support personnel or anyone acting in similar capacity to bet or procure bets on their behalf on a given event. The Football Association rules 2015–2016 are even stricter and prohibit betting directly or indirectly on any aspects relating to a football match or football competition, or any matters that may be associated with such competitions, for example the transfer of players, regardless of whether the bettor is involved in the betted-on event or not. Similar prohibitions are imposed

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80 Housing Act 1996, s 175(3).
83 Rugby Football Union Regulations, Reg. 17.3.1.
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by many other sporting associations, but they do not prevent many players from participating in gambling, either in breach of the regulation or on events that are not included within the prohibitions. Instances of such gambling are not infrequently reported in the news and some have led to disciplinary proceedings and punishments against the involved parties, but many are likely to remain unnoticed. Lower income sportsmen were reported to be at an even higher risk than those in the high-income brackets, despite the belief of many that they ‘do not earn enough’ to be a problem gambler. The natural competitiveness of athletes, their inherent unwillingness to lose, and more strictly enforced prohibitions on and potential career-ending consequences of alcohol or drug use make gambling a less controversial entertainment. Finally, the risks of problem gambling amongst prison inmates have also been estimated to be five to 10 times higher than is the case for the generic population.

Many additional factors contribute to the potential of individuals to lose control of their gambling. All of the aforementioned groups appear to be vulnerable due to different reasons but they bear many similarities. The cumulative effect of personal characteristics of competitiveness, risk-taking attitudes, the need for excitement, high impulsiveness coupled with external pressures, for example, to escape loneliness or boredom or the inability to cope with a variety of stressful life events are common to all. It can also be seen that if we capture all the risk factors and all potential vulnerable groups of individuals, as identified by the empirical knowledge, one cannot escape the conclusion that vulnerability to gambling-related harm can potentially affect most people at any point in time and focusing on individual pathology is not helpful. This, further, exposes the reasons why the majority of regulatory interventions seem to

85 See e.g., ‘Five Players Embroiled in Football Betting Scandals after Sutton’s Wayne Shaw’s Pie-Gate’ The Mirror (21 February 2017); ‘Joey Barton’s Ban for Gambling on Football was “Shortest Possible”’, The Guardian (27 April 2017).

86 Examples of disciplinary proceedings include a charge against Phillip Blake in 2015 for betting on his own rugby team, and a charge against Lewis Smith in 2017 for betting contrary to the Football Association rules.


have little impact on actual levels of problem gambling\textsuperscript{89} and emphasises the need to acknowledge that everyone may find themselves at risk at some point in their life trajectory. This may then pave a way towards more studies that aim to identify the specific trigger points that lead gamblers to cross the line between harmless gambling and compulsive behaviour and focus less on generic risk factors that seem to incorporate most of the population.

1.4 GAMBLING’S STRUCTURAL AND PSYCHOSOCIAL CHARACTERISTICS

Vulnerability to gambling disorder cannot be solely attributed to the individual characteristics or personal traits of gamblers. Structural and psychosocial aspects of gambling materially contribute to the overall attractiveness of this form of leisure. Structural characteristics have been described as ‘features of the gambling activity itself that often influence the development and maintenance of gambling behaviour’.\textsuperscript{90} The extent of the impact varies between different forms of gambling. While the overall existence of ‘addictive properties’ of gambling continues to be periodically challenged, it is now accepted that some features are particularly ‘gambling-inducing’,\textsuperscript{91} specifically encouraging and facilitating repeated and potentially prolonged play by inducing the feeling of a ‘flow’ and by allowing players to lose themselves in a game. This, in turn, contributes to the potential development of problem gambling. Games that incorporate more of such gambling-inducing components are deemed to represent a higher addiction risk than those that include fewer of them.\textsuperscript{92} Structural features that have been found to be particularly gambling-inducing include ‘short pay-out intervals’, ‘rapid event frequency’, ‘entrapment’ and ‘near misses’.

Short pay-out intervals and rapid event frequencies are interrelated and jointly refer to the time period required to find out the results, receive any rewards or process reinforcement messages, if any, and be able to move

\textsuperscript{92} Ibid.
from one gambling episode to the next. This time period dictates the minimum length of post-reinforcement pauses and they vary materially between different games. Slot machines, online slot machines, roulette, online in-game betting and scratchcards have the shortest mandatory post-reinforcement pauses, whereas traditional lotteries and offline betting on sport events requiring a visit to a betting shop to place a bet or to cash out any winnings, have the longest. The shorter this period, the less scope for players’ reflection on their gambling behaviour and the higher propensity to encourage further play.

Entrapment refers to a state of mind of players who feel that they have invested too much already into the gambling activity and cannot stop unless they win. This is not confined to financial expenditure but extends to time and emotional investments that may make players unwilling to stop. Such reluctance may persevere despite continuing to incur substantial losses due to ‘some internal sense that they have gone too far to give up now’. The sense of entrapment does not only occur in hard forms of gambling. Some of the lottery features and advertising techniques also tap into the potential to generate such feelings in their players. Frequent buyers of lottery tickets are often cited to be affected by this phenomenon, especially if they choose identical numbers each week and feel anxious about not playing in any given week in case ‘their’ numbers are selected. One National Lottery marketing exercise that was recalled by pupils during the focus groups drew specifically on this psychological phenomenon when they portrayed the negative feelings of a player who forgot to play on their usual numbers that were then selected, implying the need to play regularly.

‘Near misses’ occur where the outcome of a play is perceived by players to be nearly winning as opposed to losing. Even though ‘near misses’ are simply another version of losing, they have been observed to facilitate and encourage further play. They have been described, as early as in 1979, as ‘heart stoppers’ due to their effect of making

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95 Shown on terrestrial TV in April/May 2013.
players believe that instead of simply losing, they have come very close to a big win. This make them think, albeit for a short period of time, that they have in fact won a potentially large jackpot or another significant prize.99 In games where ‘near misses’ are frequently utilised, they appear to strongly reinforce gambling behaviour.100 Instead of activating risk-averse cognitive processes, they were found to activate the parts of the brain that are responsible for processing winning and reinforcement messages.101 This causes the gambler to feel a further urge/desire or need to continue playing.102 ‘Near misses’ are most frequently utilised in gaming machines and in their online equivalents but they happen in almost all forms of gambling. For example, in traditional scratchcards, revealing three symbols entitles the player to win a prize. Revealing two symbols amounts to a near miss, especially if other symbols remain hidden. Similarly, in roulette, placing a bet on the number 20 may give the impression of a ‘near miss’ if the ball falls on numbers 17, 19, 21 or 23 due to the layout of the roulette table. The National Lottery in the UK has recently minimised the ‘near-miss’ phenomenon in draw-based lottery games. Traditionally, a lottery player was only entitled to a pay-out when they correctly guessed three out of six numbers on any given line. A ‘near miss’ occurred when players guessed two out of three numbers across one line or six numbers but across different lines. Now, guessing two numbers also entitles the player to receive a small reward as they are entitled to play again for free. This minimises the potential ‘near-miss’ effect but such initiatives are not replicated for other forms of gambling.

It has been suggested that ‘near misses’ facilitate and encourage further play due to the frustration effects that they cause. The frustration theory derives its support from physiobiological research that measured skin conductance responses during a gambling episode. During these studies ‘near misses’ caused a greater effect on participants than regular losses and even small wins.103 In slot machine players the effects were visible

102 Ibid.
not only when the results were already known but also prior to discovering the outcome in anticipation of a possible win. This was mostly noticeable when the first two symbols were stopping on the reel.\textsuperscript{104} Dixon et al. found that ‘near misses’ caused higher skin conductance responses but very short breaks (short post-reinforcement pauses) before a gambler moved on to their next game because of the frustration that it led to.\textsuperscript{105} Similar effects were observed for players gambling on scratch-cards. Stange et al. investigated the objective (via skin conductance response) and subjective (via participants’ own accounts) reaction of 38 undergraduate students from the University of Waterloo, Ontario to winning, losing and experiencing ‘near misses’ when playing a custom-made scratchcard. ‘Near misses’ were more ‘frustrating and negatively valanced’ than wins or losses, thus offering further support to the frustration theory.\textsuperscript{106}

Participating in any gambling activity may lead to harmful behaviour but it is well known that some forms leads to addiction much faster than others. This must stem from the structural properties of the gambling product itself, as opposed to the personal character of the gambler, but the industry is essentially free to exploit these features, subject only to minimal regulatory requirements that relate to fairness, transparency and some limited expectations on interruptions of prolonged plays.

1.5 GAMBLING ENVIRONMENT

The Gambling Act 2005 officially defined and legitimised remote forms of gambling but they were already available before the new legislation was passed. In the UK, online gambling participation is rapidly increasing and this trend is likely to continue. The British Prevalence Study that was carried out in 2010, shortly after the liberalising ethos of the Gambling Act 2005 came into effect, showed only a modest increase of 1% on the previous rates reported in 2007.\textsuperscript{107} Since then, the rates have more than doubled. The Gambling Commission reported in February 2017 that, currently, 17.3% of respondents participated in an online gambling activity at least once in the four weeks preceding the survey.

\textsuperscript{104} Ibid.
\textsuperscript{105} Ibid.
\textsuperscript{107} British Gambling Prevalence Study 2010 (6% in 2007 and 7% in 2010).
The remote gambling sector commands 33% of the overall market share, and between April 2015 and May 2016 it generated £4,468.64 million in gross gambling yield.\(^{108}\) This represents the highest amount across all forms of gambling and exceeds even the yield achieved by the National Lottery, which remains the most popular form when measured by the number of people playing as opposed to the amount of money spent. The UK regulatory framework treats online gambling in an equivalent manner to its offline counterpart. Indeed, upon the introduction of the Gambling Act 2005, online providers were treated more favourably than their offline partners. This was due to the reciprocity principle that permitted providers to offer remote services without applying for a UK licence as long as they were in possession of a licence granted by the appropriate regulatory authority in a country that was a member of the European Union/European Economic Area or in a ‘white listed’ jurisdiction. These included Alderney, Antigua and Barbuda, Gibraltar, Isle of Wight and Tasmania. The recognition of foreign licensing regimes was removed by the Gambling (Licensing and Advertising) Act 2014, and now all providers, regardless of their locations, need to apply for a UK gambling licence in the same manner as land-based operators.

The liberal approach towards remote forms of gambling reflects the confidence placed in the effectiveness of regulatory controls, but jurisdictional approaches differ. Some countries attempt to restrict online gambling availability even if their land-based regulations are permissive. This is due to the Internet’s unique environment, which is perceived to be significantly more conducive to the development of a gambling disorder than is the case with land-based gambling. For example, Australia permits all forms of offline commercial gambling provided that the operator has the appropriate licence, but the provision of several games of chance on the Internet by anyone who is physically located in Australia or in any designated country is prohibited by the Australian Interactive Gambling Act 2001.\(^{109}\) Attempts to relax online restrictions that were proposed by the Productivity Commission Inquiry Report on Gambling 2010 were met with strong opposition from the Australian government, who argued that ‘… the Internet is very attractive to this group [problem gamblers] and, though the evidence is weak, gambling online may exacerbate already hazardous behaviour’.\(^{110}\) Australia’s online gambling rules are very complex but the prohibition outlaws

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\(^{109}\) Interactive Gambling Act 2001, ss 15 and 15A.

interactive casino games such as roulette and online versions of slot machines but not remote wagering on sport events. The main exception to permitted remote betting refers to in-play wagers. This remains prohibited. In-play, otherwise called in-game betting refers to bets that are placed on a sport event after the particular event has already commenced. However, a loophole in their legislation permitted in-game betting if such bets were placed over the phone as opposed to online. Uncertainty also existed with regards to online poker. Australia’s adoption of the preponderance test led to arguments that the regulation of online poker should differ from other casino games that are based purely on chance. Some support was given to this point of view in the South Australian decision in \textit{Police v Jones}^{111} where the court restated that poker involves skill and as it does not depend wholly on chance it should be treated separately. This uncertainty has now been removed by the Australian Interactive Gambling Amendment Act 2016. It received Australian Senate approval in March 2017 and clarified that casino games prohibited by the Act include poker. The Bill also closed the loophole that previously allowed telephone in-game bets in order to outlaw all forms of remote in-play betting. These two clarifications on how previous laws were intended to apply prompted many gambling companies to consider closing their Australian branches, but it also reinforced the anomaly that Australians who wish to gamble online have to rely on providers from foreign jurisdictions willing to ignore Australia’s laws. This online gambling is unlikely to be regulated or have social responsibility measures firmly embedded within their processes and so Australia’s position here may be counterproductive. The United States also attempted to restrict gambling on the Internet through their federal Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). This Act created a federal offence of ‘knowingly accepting monies by anyone in the business of betting and wagering in connection with the participation of another person in unlawful internet gambling’.\footnote{112 Unlawful Internet Gambling Enforcement Act 2006.} However, the Act did not define ‘unlawful internet gambling’ nor did it pass amendments to the two main exceptions. The Interstate Horseracing Act 1978 arguably continues to exempt online betting on horse racing as long as such betting is permitted by the individual State where the bet is placed and by the State, if different, where the race takes place. The Indian Gaming Regulatory Act (IGRA) grants exclusive jurisdictions to Indian tribes to regulate all gambling on their native territories. This implicitly


112 Unlawful Internet Gambling Enforcement Act 2006.
includes online gambling, which thus may still be authorised despite UIGEA 2006. Despite several high-profile arrests and prosecutions for breaches of the Act, it has had a very limited success.\textsuperscript{113} Similar endorsements of the dangers of online gambling have been made by the European Court of Justice in \textit{Bwin v Santa Casa da Misericordia de Lisboa}\textsuperscript{114} and \textit{Zeturf v Premier Minister}.\textsuperscript{115} Nevertheless, jurisdictions, especially in Europe, are starting to legalise remote gambling in recognition of the futility of prohibition; for example, France and Portugal recently removed many restrictions previously placed on their remote services.

This does not mean that online gambling does not present unique challenges. The specificity of this environment makes it prima facie very attractive to those who suffer from problem gambling, and while evidence remains inconclusive, it may accelerate the development of the disorder. The features that may be particularly gambling inducing can be grouped into two broad categories: (1) the omnipresence of gambling websites with 24-hour access and accelerated speed of play; and (2) the unique online gambling experience that may be far removed from social monitoring. The issue of omnipresence relates to aspects well beyond the mere ubiquity of gambling opportunities on the Internet. In the UK, offline betting venues and adult gaming entertainment centres are highly prevalent on almost every High Street. As of September 2016, there were 8,709 betting shops and 575 bingo premises.\textsuperscript{116} While land-based casinos are less common, with only 148 across the whole country, there are still 167,839 gaming machines, in addition to those that are authorised by the local authorities and are located in pubs and clubs.\textsuperscript{117} More important is the ease of access and duration of accessibility. Internet casinos or virtual betting events are open 24 hours, 365 days a year and can be entered from the comfort of one’s home or on a boring and often long train commute to work and in most other locations where the player can pick up a Wi-Fi signal. In other words, they are available at times and locations that other gambling premises (even though they are also very widespread) are not available or are closed. Some websites require the customers to download their gambling software onto their computers but

\begin{thebibliography}{99}
\bibitem{114} Case C-42/07, 8 Sept 2009.
\bibitem{115} Case C-212/08 [2008] 1 CLM 4.
\bibitem{117} Ibid.
\end{thebibliography}
many allow instant play. If, as argued by Welte et al.,118 the odds of developing gambling-related problems are heightened by 90% if an individual lives within a 10-mile radius of a casino, then mobile gaming that reduces the distance between virtual casino and the vast majority of households to 0, should be very concerning. Currently, online gambling is still accessed primarily from home, with 97% of online gamblers playing from home computers. But 55% access them using a laptop and 43% using a mobile phone or a tablet, meaning that they have the option to do so from other locations.119 Continuous and targeted advertising may further encourage gambling ‘on the go’. Initial online access is further facilitated by the removal of the cooling-off period and the permissibility of playing instantly and even before the age verification has been completed. The cooling-off period that applied to land-based casinos prior to the Gambling Act required all players to register 24 hours before they were permitted into the premises to gamble but this has now been removed. The time that may be needed to age verify remote customers does not prevent players from starting to gamble immediately upon registration either, as operators have 72 hours during which the customer needs to be identified. These aspects effectively removed any barriers on access. Once a customer registers with a site, subsequent playing episodes are very easy. Only a user name and password is required and the customer typically does not even need their payment details as most companies collect and keep this information upon registration. While the need to register, potentially download the software and provide payment details slows down the commencement of actual gambling and may discourage some spontaneous play, this effect is likely to be very marginal and would not deter those who are particularly attracted to this form of entertainment. Many players, especially young men, have several accounts with different providers allowing them to take advantage of multiple promotions, which further increases engagement levels.120

The seductiveness of the interactive experience can also be attributed to salient features, real or perceived, that apply to all online activities.


120 EG Deans et al., ‘“I can sit on the beach and punt through my mobile phone”: The Influence of Physical and Online Environments on the Gambling Risk Behaviours of Young Men’ (2016) 166 Social Science and Medicine 110.
Online gambling websites cannot match the experience of glamour or the plush interior design of high roller rooms in land-based casinos. They are less capable of creating a feeling of a social occasion or a fun day out and cannot offer complimentary drinks or subsidised food. But most providers are very proactive in terms of simulating video games’ qualities in gambling games and focus on exciting graphics, audio-visual stimulations and targeted incentives. Online immersion can continue uninterrupted by closing times or interference from other players or members of staff. However, those who wish to engage socially are typically well catered for. Most gambling websites include interactive features that permit communication with other players such as instant messages or chat boxes. Such features are very popular, especially in peer-to-peer poker, although they are less commonly available for gamblers engaging in online slot machines or betting. However, some players choose remote forms of gambling precisely to avoid contact with strangers. This may stem from a simple lack of a need to interact with others, but it may also indicate the need to hide from potential social interference or social stigma. Hiding compulsive gambling behaviour is materially easier online, especially when gamblers have several accounts with different providers both inside and outside the jurisdiction in which they are located. Suspension of judgment results from the phenomenon that causes people to view intangible currency as less valuable than real cash.  

121 This is utilised online where electronic deposits are converted into gaming credits and in many casinos where funds are exchanged for tokens and chips. However, while the intangibility of currency online is an inherent and unavoidable feature of a cashless environment where money can only be deposited using electronic methods of payment, this is not essential in land-based venues. Many betting shops, adult entertainment centres and most gaming machines accept cash payments. Even though anonymity online is a fiction, most internet users feel detached from the online environment and less inhibited from engaging in behaviour that they would not necessarily display outside the protection of their computers.  

122 Players are also often met with a plethora of hard-to-resist free bonuses or other incentives that lure back customers into gambling even when they wish to leave. Some unscrupulous operators use telescopic windows that are difficult to close for the display


of such offers and these may be particularly hard to resist for a problem gambler who feels the urge to maximise any chances of winning.

The actual impact of internet features on problem gambling remains uncertain. Gamblers, including those who suffer from the disorder, tend to access gambling through a variety of platforms. In the UK, only the Welsh Problem Gambling Prevalence Survey attempts to differentiate between problem gambling levels caused by different activities. The latest 2016 data showed that 9.2% of problem gambling is found amongst those who engage in at least one form of online gambling other than remote entries for the National Lottery draws, versus 2.4% amongst those who gamble but not on the Internet (also excluding playing the National Lottery).\(^\text{123}\) It may be that online gambling is more prone to cause gambling disorder or it may be that its characteristics attract those who are more vulnerable. However, it is undisputed that the combination of such factors renders online gambling somewhat more dangerous than its land based counterpart.

1.6 DO MINORS CONSIDER THEMSELVES VULNERABLE?

Minors’ knowledge and understanding of the risks associated with gambling were explored during the focus groups. These appeared to be well recognised and known. In most of the groups, there was at least one pupil who was able to recall someone known to them who suffered negative consequences due to gambling, and there were at least five pupils in total who described acute situations that affected someone close to their family home.

Negative consequences listed by pupils ranged from the very severe, such as losing a home and being declared bankrupt, to the more intangible aspects, such as neglecting family and causing upset. Although pupils were able to recall nearly all possible negative consequences, which indicated a very good overall awareness, a theme of bias towards financial difficulties was evident. Pupils pointed out that gambling was, or could lead to addiction, that it could mean incurring debt and cause someone to lose all their money, ultimately leading people to financial ruin and bankruptcy. Other comments alluded to physical and mental stress, depression, violence and criminal activities, and lack of respect for themselves and others. For example:

\[^{123}\text{Welsh Problem Gambling Survey 2015.}\]
Gambling causes mental harm, physical harm, and also harms you financially because people who gamble regularly think – yeah, I got the skill – and like they think like gambling is a skill and they harm themselves mentally and they lose money, a lot. (Sponge, 14, f)

Apart from the physical, you get a mental stress if you get to people’s heads; too much gambling could lead to that, like mental stress. If you win the money it can also get to their heads. (Bob, 17, m)

If you were to gamble on that horse and that horse didn’t win you would just feel like let down and you might take your anger out on the person next to you for losing. (Telly, 17, f)

I think it can be quite addictive because people when they are there and they are like so close to winning something and they want to go back and win it and when they keep losing they will keep going back and losing so it’s like … like setting money on fire. (Misha, 14, f)

Pupils’ understanding of the potential negative consequences of gambling did not extend to understanding why gambling may cause addictive behaviour. To some extent, this needs to be attributed to the age of the focus groups’ participants. Overall, they would not be expected to have and did not display a proper understanding of the mechanics of addiction and they were strongly influenced by the perceptions prevalent in society in general. This resulted in a tendency to focus on individual pathology and to mostly blame the affected individuals. For example, Twinker (18, f) argued that ‘some people must experience some kind of loss of rational thinking because people who are gambling all the time; it is just, well, ultimately, individuals will be unlikely to win’. Several pupils referred to the inability of players (known to them either from personal experiences or from news) to simply play for a short period of time and, if they win, to enjoy the winnings, pointing out that most winnings are gambled away. For instance, P3 (18, m) described his own experience in the following manner: ‘This one win, I got like 15 quid back. Instead of taking the money and be happy, no, as I won I may win again and you get that thrill and you play again’. P3 admitted that on the described occasion he lost all the money he had with him at the time.

The contribution of pupils’ understanding of the potential negative consequences of gambling to their attitudes to the industry overall was small. Values imposed by families, friends and religions were substantially more influential and generated overall negative attitudes. This was ascertained from express comments but also more indirectly from the difficulties that participants had when asked to identify the positive aspects of gambling. These were mentioned only after further probing and related to three main themes. A high emphasis was placed on the
possibility of winning money and many pupils indicated that this is the only good element of gambling. A smaller, but still a significant number of pupils, highlighted the thrill and fun aspects of gambling, and the additional enjoyment gamblers have when watching sport events. For example, Sachin (17, m) commented that ‘if you watch a game of football, it’s so much better to watch something … if you bet on someone’. Pupils who focused on the thrill aspects of gambling tended to be engaged in real money gambling themselves, or had family members who gambled without suffering any adverse consequences known to them. A few pupils also noted that gambling can be a social event that may facilitate bonding between family members, such as Jenny (17, f) who liked playing scratchcards with her grandmother as it gave them something to do together during the visits. Other favourable comments were made by individual pupils without attracting further discussion, which prevented a determination of whether their views attracted support, indifference or dissent. These included comments about gambling being courageous, encouraging competitiveness, teaching risk assessment, and offering players the opportunity to lead exciting lifestyles. For example:

Gambling is being courageous, it’s like if you put something and you are willing to put it on the line except that you may be getting something bigger. (Bing, 17, m)

Gambling being competitive is a good thing. (Misty, 17, f)

If you go to a casino you feel like a real top geezer. (Joe, 14, m)

Perhaps unsurprisingly, those pupils whose family members or friends had a gambling problem viewed the thrill and excitement as negative features and they refused to associate any positive elements with this form of entertainment.

Poker deserves a separate, albeit brief, mention because playing poker generally attracted significantly more positive responses, and constituted an important exception to the overall prevalence of negative attitudes towards gambling. Participants’ views were strongly biased towards the skill element involved in playing poker. Many of them considered that the social and fun aspects of the game and the need to learn and utilise mathematical skills outweigh any potential risks from the game itself.

However, the perception that gambling problems are caused predominantly by weaknesses in individuals’ personalities led many gambling pupils to adopt an ‘it won’t happen to me’ approach, with many expressing derogative comments about those who were perceived not to be able to gamble responsibly. For example,
If you only play reasonably you never gonna lose money on that; not that would matters; it is just a bit of fun but not like you know, remember when this was the guy where Manchester United was playing and he put his house on that they lost; like that it’s just stupid. (Terry, m, 14)

What more actively discouraged minors from gambling commercially, were their overall rather antagonistic attitudes to the gambling industry as opposed to the activity itself. Several pupils felt that the industry is not doing enough to help those who are adversely affected by it. Many pupils expressed their perception that the industry cannot be trusted. Others pointed out that gambling machines are ‘dodgy’, ‘rigged’, that casinos want you to lose all your money and that they do not care about children or those who have a gambling problem. For example:

People who play, they think they gonna get the money back but they rig it so only certain customers get the money; there is a whole system in it; my uncle used to own a pub and what he did was when he got the machine he rigged it so when people paid they never got their money back. (Cookie, 14, m)

Children were also wary of hacking and online scams, which made them reluctant to access any online activities that involved financial transactions. For instance:

It is too risky to put your bank details on because of all the hacking scams. (Rohan, 14, m)

There are some scams out there, basically we were watching this film and the pop-up comes and this woman with all her cleavage coming out and you are so onto it [sic] and you fill in the details and they take all your money like that. (Quentin, 14, m)

1.7 CONCLUDING NOTE

The conceptualisation of gambling-related harm and vulnerability in the UK continues to adhere to traditional and familiar perspectives. Reliance on individual pathology is unsurprising. The focus on rates of pathologi- cal gambling (now reclassified as gambling disorder) as collected by national Health Surveys and the Welsh Problem Gambling Prevalence studies provides metrics that are deemed trustworthy and are relatively easy to collect. They also often produce results that demonstrate the effectiveness of the exiting regulatory framework and justify the preservation of the status quo. This approach is, however, too limiting. The multi-dimensional and nuanced nature of the phenomenon means that it
is too narrow to effectively measure or even identify the real extent of gambling-related harm or the trajectory that the gamblers take towards experiencing such harms. The intersection between individual pathology, the psychosocial and structural properties of the gambling products and environmental agents is significantly skewed towards the first. This is not without consequences. As will be evidenced in the next chapter, this narrow approach cascades to the social responsibility requirements imposed on the industry that aim to protect adult gamblers. Their remit rarely extends beyond empowering individuals to take better control of their gambling behaviour, but this gives insufficient recognition to the remaining two agents. It also influences how the general population and minors perceive gambling vulnerability, with the result that many people feel immune to gambling-related problems, even though nobody truly is. It also prevents sufficient emphasis being given to arguably the most important aspect – that is, the identification of the trigger points that cause gamblers to cross the line between safe and unsafe gambling.

This may explain why prevalence studies across various jurisdictions seem to produce comparable levels of problem gambling, irrespective of whether gambling is liberalised or restricted.\footnote{S Planzer, *Empirical Views on European Gambling Law and Addiction* (Springer 2013).} It may be argued that this shows that regulatory interventions have very limited impact, or, as is advanced in this book, that the narrow understanding of gambling-related harm and vulnerability is misguided.