



Tasmanian Council of Social Service Inc.

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# Submission to the First Review of the *Responsible Gambling Mandatory Code of Practice for Tasmania*

*September 2017*



INTEGRITY  
COMPASSION  
INFLUENCE

## About TasCOSS

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TasCOSS is the peak body for the community services sector in Tasmania. Our membership includes individuals and organisations active in the provision of community services to low income, vulnerable and disadvantaged Tasmanians. TasCOSS represents the interests of its members and their clients to government, regulators, the media and the public. Through our advocacy and policy development, we draw attention to the causes of poverty and disadvantage, and promote the adoption of effective solutions to address these issues.

Please direct any enquiries about this submission to:

Kym Goodes

**CEO**

Ph. 03 6169 9504

Email: [Kym@tascoss.org.au](mailto:Kym@tascoss.org.au)

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## Introduction

TasCOSS welcomes the opportunity to provide input into the First Review of the Responsible Gambling Mandatory Code of Practice.

As a peak body, we seek out and represent the experiences, knowledge and views of our members. We also conduct our own research into issues that affect low income, vulnerable and disadvantaged Tasmanians. We understand that one of our members, Anglicare, has provided you with input for this review. Having consulted with Anglicare on this issue we strongly endorse their submission. To support their submission we would like to draw your attention to national research into the effectiveness of codes of conduct.

### *Limitations of Codes of Conduct*

One such study, 'Responsible gambling codes of conduct: lack of harm minimisation intervention in the context of venue self-regulation'<sup>1</sup>, found the following:

- An overall lack of staff interaction in the context of apparent gambling problems;
- staff encouraging gambling;
- a lack of intervention when gamblers are accessing cash;
- gamblers using multiple machines; and
- breaches of self-exclusion.

The lessons learned from research into self-regulation are useful in the absence of rigorous enforcement of mandatory codes (discussed later in this submission) and raise questions about the effectiveness of codes of conduct, particularly in the context of business models which rely on 40% of profits coming from people who have a problem with gambling.<sup>2</sup> Another piece of research that reviewed harm minimisation measures, including codes of conduct, in Australian gambling venues found that:

- there is a modest level of evidence supporting some measures, notably self-exclusion and, to a greater extent, the removal of ATMs;
- there is also some evidence that 'responsible gambling' measures have, collectively, reduced the harms associated with gambling;

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<sup>1</sup> Rintoul, A., Deblaquiere, J. and Thomas, A., 2017 'Responsible gambling codes of conduct: lack of harm minimisation intervention in the context of venue self-regulation', *Addiction Research & Theory*, 1-11.

<sup>2</sup> Productivity Commission Inquiry Report, 2010, *Gambling*, Chapter 5.33.

- however, there is limited evidence available to confirm the effectiveness of most individual ‘responsible gambling’ measures actually implemented in venues;
- further, policy measures implemented outside the control of venues (such as ATM removal, reduction in bet limits, and the prohibition of smoking) appear to be associated with more significant effects, based on analysis of EGM revenue data in Victoria;
- *there is growing evidence to suggest that pre-commitment, one-dollar maximum bets or other machine design changes may yield significantly more effective harm minimisation effects than in-venue practices such as signage or, indeed, self-exclusion.*<sup>3</sup>

The Productivity Commission, too, addresses the limitations of codes of conduct that attempt to promote responsible gambling. It notes that: “... the conditions needed for [players’] informed and rational choices [to gamble] are incomplete, so that the outcomes can be problematic in gambling. ... [P]layers may:

- have faulty ‘cognitions’ underpinning their choices find it hard to stop playing;
- fail to appreciate the risks to themselves (“It might happen to someone else, but not me”);
- have their judgment impaired by alcohol (since the main venues offering gambling — casinos, clubs and hotels — also offer alcohol); and
- be vulnerable, such as people suffering from emotional or mental health problems.”<sup>4</sup>

This suggests that gamblers experiencing harm from their use of poker machines won’t always recognise this harm, and nor will they necessarily seek help if they do recognise they are experiencing difficulties. For venue staff, research shows that they are not always capable of distinguishing between patrons who are experiencing harm from gambling and those who aren’t.<sup>5</sup> Even when they do identify a problem, as the Anglicare submission points out, many staff do not have the confidence or skills to approach patrons to intervene in their gambling. As a Queensland report points out, “continued reliance on human judgement and discretion are likely to see the vast majority of problem gamblers in venues ignored.”<sup>6</sup>

As it is currently written, the Mandatory Code does not require venue staff to be proactive in intervening when a patron has been identified as experiencing harm from their poker machine use. TasCOSS believes that the Code should be revised to require venues to make proactive interventions with patrons who are experiencing harm from gambling, or are at risk of doing so. To remove or reduce room for human error and discretion, automated interventions should be considered such as using data collected through player loyalty

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<sup>3</sup> Livingstone, C., Rintoul, A. and Francis, L., 2014, ‘What is the evidence for harm minimisation measures in gambling venues?’ Evidence Base. no. 2, p.17 (emphasis added).

<sup>4</sup> Productivity Commission Inquiry Report, Chapter 10.3.

<sup>5</sup> Delfabbro, P., Borgas, M., & King, D., 2012, Venue Staff Knowledge of Their Patrons’ Gambling and Problem Gambling, *Journal of Gambling Studies*, 28(2), pp. 155-169; Hing, N., and Nuske, E, 2011. ‘Assisting problem gamblers in the gaming venue: an assessment of practices and procedures followed by frontline hospitality staff,’ *International Journal of Hospitality Management*, 30(2), pp. 459-467.

<sup>6</sup> Hing et. al, *ibid*.

programs to calculate total losses, with exclusion from gambling after a mandatory pre-commitment threshold is hit.

Another limitation of the current Code is that it is possible for venues to be compliant with the code but nevertheless still promote gambling in ways that result in significant harm to some users of poker machines.

The Mandatory Code could be revised to specify that a venue has an overriding obligation to provide an environment which discourages harmful gambling and excessive player losses. This would give the Commission scope to penalise venues which seek to fulfil technical regulatory or legal requirements, while ultimately encouraging their patrons to gamble and cause harm to themselves, families, and communities.

#### *Insufficient monitoring and enforcement*

In Tasmania, Treasury undertakes compliance inspections on a rolling basis, with all breaches recorded in an internal system.<sup>7</sup> We have three concerns with this system. The Tasmanian Audit Office (TAO) notes that 231 inspections have taken place across 159 venues from May 2015 until the time of its report, but that 47 inspections were overdue and more than 10 months outstanding.<sup>8</sup>

In addition, the TAO states that compliance inspections are conducted on a ‘risk-based approach’. Risk-based auditing of the Mandatory Code, however, represents a significant risk in itself because all gambling operators have a commercial incentive to increase their profits. The suggestion that there are ‘low’ and ‘high’ risk operators is therefore questionable. Periodic inspections of all venues for compliance with the Code would better address incentives for non-compliance.

Of further concern, on review of the limited information on penalties issued by the Liquor and Gaming commission described in their 2013-14, 2014-15, and 2015-16 annual reports, is that the vast majority of fines to venues relates to non-approved machines or configurations, the absence of a licensed supervisory employee in a venue, inadequate surveillance, or administrative failures. It is unclear whether the Commission has ever used penalties to enforce the Code’s harm minimisation elements and for the protection of vulnerable patrons. Of course, this could suggest full compliance by venues, but this should not be the automatic assumption. Public confidence in compliance with the Mandatory Code would be improved with regular, public reporting of breaches of the Code by venues.

### **Conclusion**

Although the current review is restricted to reviewing the ten focus areas that are covered by the existing Code, the Gaming Commission “reserves the right to consider other matters

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<sup>7</sup> <http://www.audit.tas.gov.au/wp-content/uploads/Report-Gambling-revenue-and-managing-harm-from-gambling.pdf> p. 36. Accessed 14 September 2017.

<sup>8</sup> <http://www.audit.tas.gov.au/wp-content/uploads/Report-Gambling-revenue-and-managing-harm-from-gambling.pdf> Accessed 15 September 2017.

outside of this current process as appropriate”.<sup>9</sup> TasCOSS is a member of Community Voice on Pokies Reform and supports its position that the Tasmanian Government should remove poker machines from pubs and clubs as the most effective harm minimisation strategy, and introduce the harm reduction strategies outlined above and below on poker machines in the casinos.

If poker machines are not removed from pubs and clubs, we would ask the Government to consider introducing these harm reduction strategies across all poker machines in the state:

- a binding, universal pre-commitment system;
- behaviour tracking technology that prevents further gambling once the loss limit is reached;
- a maximum \$1 bet limit;
- require all new machines to provide gamblers with receipts or proof of purchase to enable the tracking of losses (this was recommended by the Productivity Commission in its 2010 report<sup>10</sup>);
- strengthen the Code to require venues to conduct proactive interventions, using data harnessed technologically if possible, for people presenting with behaviours that indicate a problem with gambling; and
- regular inspections of all venues for compliance with the Code, with publicly available reports of all breaches.

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<sup>9</sup> Tasmanian Liquor and Gaming Commission, 2017, ‘First review of the *Responsible Gambling Mandatory Code of Practice for Tasmania* Options Paper, p. 4.

<sup>10</sup> Productivity Commission Inquiry Report, Chapter 8.25.