
NORTHERN IRELAND ASSEMBLY ALL PARTY GROUP ON REDUCING HARM RELATED TO GAMBLING

Response to the Department for Communities' Consultation on Article 180A of The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985: Initial Gambling Code of Practice

24 December 2024

Introduction

The Northern Ireland Assembly [All Party Group on Reducing Harm Related to Gambling](#) welcomes the opportunity to respond to the Department for Communities' [Consultation on an Initial Gambling Code of Practice](#), as provided for under Article 180A(1) of The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (henceforth the 1985 Order), and introduced via the Betting, Gaming, Lotteries and Amusements (Amendment) Act (Northern Ireland) 2022 (henceforth the 2022 Amendment Act).

Since the APG's founding in 2020, representatives from the Department have provided consistent and valuable input. Most recently, on 19 November 2024, the Department briefed APG members on the subject of this consultation.

The following response draws in part on those discussions, as well as the findings of the APG's recent inquiry into public health approaches to tackling gambling related harmsⁱ and contributions from its members and observers who have reviewed the proposed Initial Code.

We commend the Department for its efforts in developing this Initial Code and for the progress made on gambling legislation to date. The issuing of this Code represents an invaluable opportunity to establish a framework that is both agile and effective in addressing gambling-related harms in Northern Ireland.

Our ultimate goal is to ensure that the Code establishes robust, enforceable standards that safeguard individuals, particularly young people and vulnerable populations, while holding operators accountable for fulfilling their responsibilities to minimise harm. This work is vital to protecting the public health of Northern Ireland's population.

The following response highlights the key issues raised by APG members and observers regarding the initial Code of Practice.

Summary of recommendations

- The Code of Practice should explicitly reference the statutory “duty of care” as mandated by Article 180A of the 1985 Order. This definition should include clear and practical guidance on the arrangements gambling operators must implement to meet this duty, ensuring full compliance with the legislation.
- Furthermore, the Department should outline the legal recourse available to individuals who suffer gambling harms. This should be developed in consultation with the Department of Justice, the Court Service, PSNI and District Councils to ensure those

ⁱ APG on Reducing Harm Related to Gambling (2024): [Inquiry Report: Public Health Approaches to Gambling-Related Harms in NI](#)

affected are adequately supported and informed about their rights to pursue legal action.

- The initial Gambling Code of Practice should include explicit guidance on what constitutes “serious, significant, continuing, or multiple breaches” that would warrant the revocation or cancellation of a licence, registration, or permit, along with clear guidelines for the PSNI, District Councils and the courts on how to assess these breaches.
- The Code should clearly outline the reporting process for non-compliance, specifying which authorities or bodies should be approached for different types of breaches, and how to approach them.
- As the *de facto* regulator, the Department for Communities should engage in proactive monitoring of gambling operators’ compliance with the Code in the first instance, for example by initiating a test purchase scheme.
- The Code should clearly define the roles and responsibilities of the Department, District Councils, the police, and the courts in monitoring and enforcement of its provisions.
- The Department should outline in the Code how it will act against serious or repeated breaches, and utilise its powers under the 1985 Order to bring cases of non-compliance to the courts for revocation of licenses where appropriate.
- The Department should take steps to close gaps in the ban on credit card payments, for example through the use of PayPal or Klarna, ensuring that efforts to prohibit gambling on credit are robust and difficult to bypass.
- Amusement permit holders should be included on the ban on allowing Automated Teller Machines (ATMs) on certain premises.

- Age verification requirements should be consistent within the Code, ensuring that all customers are treated equally, and that proof is consistently requested whenever there is any doubt about a customer's age
- The APG recommends that the prohibition inviting, causing or permitting an individual under the age of 18 to engage in gambling activities should extend to lower prize "Amusement with Prizes" (AWP) machines. Age limit notices should similarly reflect this and should be mandatory for all gaming machines in Northern Ireland.
- The Department for Communities should establish clear lines of accountability between the PSNI, the Advertising Standards Authority, and the GB Gambling Commission to ensure there is a mechanism for enforcing advertising standards in Northern Ireland. The guidance on advertising within the Code should explicitly define the roles and responsibilities of each organisation, establish a clear and efficient process for addressing breaches, and outline how enforcement actions will be effectively coordinated to ensure compliance.
- To support the effective implementation of the Code's provisions, the Department should investigate the implementation of a multi-venue self-exclusion scheme for land based operators, as already exists for online gambling.
- The Code should contain provisions on the lawful supply and operation of gaming machines in Northern Ireland and should reiterate that so-called fixed-odd betting terminals (FOBTs) are gaming machines under the 1985 Order, and should therefore be subject to the stake and prize limits outlined in the 1985 Order.
- The Department should allocate resources to conduct reviews of the Code on a regular basis, and in any event no longer than two years, to ensure it remains responsive and effective.

Duty of care

The Betting, Gaming, Lotteries and Amusements (Amendment) Act (Northern Ireland) 2022 (henceforth the 2022 Act) introduced a statutory duty of care for gambling operators in Northern Ireland.ⁱⁱ Specifically, Article 180A (2) (a)-(c) of the 1985 Order, as amended, mandates that a Code of Practice “must describe arrangements that should be made by a person providing facilities for gambling to meet an expected duty of care to those using the facilities” .. It is however concerning that despite Article 180A (2) (a)-(c) referencing a duty of care, the Code makes no explicit reference to the term “duty of care” itself, nor does it define this duty. g This omission leaves a critical gap in ensuring licenced and permitted gambling operators understand and comply with the Code. The Code of Practice should explicitly reference the statutory “duty of care” as mandated by the 1985 Order, as amended by the 2022 Act. This definition should include clear and practical guidance on the arrangements gambling operators must implement to meet this duty, ensuring full compliance with the legislation.

Furthermore, the Department should outline the legal recourse available to individuals who suffer gambling harms. This should be developed in consultation with the Department of Justice, the Court Service, PSNI and District Councils to ensure those affected are adequately supported and informed about their rights to pursue legal action.

Definition of breaches

The 2022 Act amended the 1985 Order to allow for a revocation of a licence, certificate or registration document as a result of “serious, significant, continuing or multiple breaches” of a Code of Practice.

The APG acknowledges the challenges of enforcing these Codes within the framework of the 1985 Order. However, the lack of explicit criteria or guidance for breaches raises significant

ⁱⁱ Section 180A(2) (a)-(c) of the 1985 Order

concerns. In the present Code, what constitutes “serious, significant, continuing, or multiple breaches” remains undefined, and will rely on the discretion of the relevant statutory authorities, operating on a case-by-case basis without explicit guidance. If a District Council, for instance, decides to approach a magistrates' court to have a gambling operator's license revoked on the basis of non-compliance with this Code, neither party will have clear criteria to refer to in order to help them substantiate or pass judgment on any breaches, leaving them to operate in the dark. This will likely lead to an inconsistent and ineffective application of the Code, as gambling operators will be able to exploit the ambiguity and create room for interpretation, undermining the Code's intended impact.

The APG therefore recommends that the initial Gambling Code of Practice includes explicit guidance on what constitutes “serious, significant, continuing, or multiple breaches” that would warrant the revocation or cancellation of a licence, registration, or permit, along with clear guidelines for District Councils and courts on how to assess these breaches.

Monitoring

Without proactive monitoring for non-compliance, the Code risks being ineffective and may be disregarded by gambling operators. As currently constituted, the monitoring of the Code will rely on individuals or organisations reporting potential cases of non-compliance on an *ad hoc* basis, as and when they are discovered. This approach is problematic because:

1. It places an undue burden on the public, the police, District Councils, and the courts to dedicate time and resources to monitoring gambling operators. These entities are unlikely to have the capacity, expertise, or motivation to effectively monitor breaches on an effective scale
2. The absence of proactive monitoring fosters an environment where operators may feel emboldened to disregard the rules with little fear of consequence, increasing the likelihood of harm to individuals and communities

3. Large gambling operators, in particular, are well-resourced and capable of mounting robust legal challenges to reports of non-compliance from individuals or local entities, further deterring the latter from committing the time and effort needed to report breaches thoroughly

Moreover, the Code in its current form contains no guidance on how one should report a suspected breach. This is a significant omission, particularly given the distinct roles played by the Department, District Councils, and the PSNI in (nominally) enforcing various aspects of gambling legislation in Northern Ireland. Consumers should not be expected to navigate this complexity on their own. The Code should clearly outline the reporting process for non-compliance, specifying which authorities or bodies should be approached for different types of breaches, and how to approach them.

By way of example: in response to a story from *BelfastLive* in August 2024ⁱⁱⁱ which exposed widespread non-compliance among amusements premises in and around Belfast city centre with the law on gaming machines in Northern Ireland, a PSNI spokesperson said the following:

The Police Service of Northern Ireland enforces legislation pertaining to gaming machines as per the [1985 Order]. Anyone with information regarding any premises they believe to be operating outside of the law or exceeding the maximum stakes and jackpots permitted under the legislation, should contact police on 101 or online via <http://www.psnipolice.uk/makeareport/>. When we receive information from the public we will investigate.

Clear guidance such as this, outlining exactly who holds responsibility for each aspect of the law, how to contact them, and the actions that will follow once a report is made, is essential for

ⁱⁱⁱ BelfastLive (2024): [Belfast amusements breaching their council licence with machines offering jackpots of £500 or more](#)

the Code to be meaningful and effective. Without this clarity, the Code risks being largely impractical and unhelpful to consumers, operators, and enforcement bodies.

In our view, the responsibility for monitoring compliance with the Gambling Code of Practice lies with the *de facto* regulator, the Department for Communities.

Notably, the Department already takes responsibility for monitoring regulatory compliance in other areas under its remit, such as with Registered Housing Associations (RHAs).^{iv}

The APG would emphasise that, crucially, resourcing a team to monitor compliance with the Gambling Code of Practice will not necessarily require new legislation, but would significantly enhance the Code's impact and credibility. In terms of funding, the Department arguably has the power under the 2022 Amendment Act to specify that some of the proceeds of the industry levy on licenced and permitted gambling operators in Northern Ireland, provided for in the legislation, can be spent on monitoring compliance,^v with any necessary increases or adjustments implemented as needed.^{vi} A portion of the proceeds from the forthcoming statutory levy on remote gambling operators in Great Britain could also be a potential source of funding for non-compliance monitoring.^{vii}

^{iv} Department for Communities: [Housing regulation and registered housing associations. While we recognise that, in these examples, the Department's regulatory role is clearly defined in statute -unlike under the 1985 Order- it is important to emphasise that the Department already undertakes regular monitoring activities.](#)

^v Articles 172A(4) and (5) - specifies that the proceeds of a levy are to be expended on projects related to gambling addiction or other associated forms of harm and exploitation [could this include financing a monitoring team within the DfC?]

^{vi} Article 172A (3)

^{vii} As the Department will be aware, the APG has urgently requested that a share the proposed statutory levy on remote gambling operators in Great Britain, due to come into effect in 2025, be allocated to help fund research, prevention and treatment in Northern Ireland. See: All Party Group on Reducing Harm Related to Gambling (2023): [Response to the Department for Culture, Media and Sport's Consultation on the Statutory Levy on Gambling Operators.](#)

A proactive approach to monitoring could be achieved in part, for example, by instituting a test purchase scheme (or schemes), similar to those used to monitor alcohol licensing in Northern Ireland.^{viii} In discussion with the APG, the Department cited methodological and ethical concerns around using young people to test age verification requirements.^{ix} We would direct the Department's attention to the successful test purchasing schemes regularly conducted by the Gambling Commission and licensing authorities in England and Wales.^x Indeed, since 30 August 2024 the Licence Conditions and Codes of Practice require all land-based operators in Great Britain to undergo age verification test purchasing regardless of size of operation, significantly improving the overall credibility of the relevant regulations.^{xi}

Additionally, while test purchasing is usually employed to test age verification, it can also be used to monitor the effectiveness of self-exclusion procedures and other measures.^{xii}

In response to a written question from the APG Chair in October 2024, the Minister for Communities confirmed that he, alongside the Ministers of Health and Education, had written to the Secretary of State for Culture, Media and Sport, The Rt Hon. Lisa Nandy MP, "seeking early engagement on the possibility of Northern Ireland receiving a share of the proposed statutory levy on remote gambling operators licensed by the Gambling Commission" ([AQW 16594/22-27](#)). Gambling Minister Baroness Twycross confirmed that she has instructed engagement at an official level on this matter. The APG awaits an update on progress on this issue.

^{viii} Northern Ireland Assembly Research and Information Service (2020) - [Briefing Note: Alcohol in Northern Ireland, p. 10](#)

^{ix} Although a statutory PSNI alcohol test purchasing scheme which used under-18s (under the direction of a police officer) was suspended in 2012, test purchase schemes in Northern Ireland have continued, recruiting "young-looking 18 and 19-year-olds" to successfully monitor compliance with alcohol age restrictions [Ibid].

^x Gambling Commission (2021) - [Guidance to licensing authorities: Part 36: Compliance and enforcement matters: 6 - Test purchasing and age verification](#)

^{xi} Gambling Commission (2024) - [Guidance to operators for age verification test purchasing \(non-remote\)](#); Gambling Commission [Licence Conditions and Codes of Practice](#)

^{xii} Gambling Commission (2015) - [Approach to test purchasing \(England and Wales only\)](#)

Test purchasing, however, is just one tool among many that the Department could employ to monitor compliance with the Code. Regular inspections or audits should also be considered. Such measures would go a long way in ensuring the Code fulfils its potential for providing essential protections for individuals and communities in Northern Ireland.

We acknowledge that some of these measures may extend beyond the immediate scope of the proposed Code. However, without any mechanism at all for proactively monitoring breaches, the Code risks being rendered essentially ineffective, severely undermining its capacity to respond to misconduct by gambling operators—an ability that was emphasised to the APG as a key advantage of adopting a Code of Practice over primary legislation.

Enforcement

The Code of Practice lacks any guidance on enforcement. It is a significant oversight that the Code does not clarify how enforcement authorities, including the PSNI, District Councils, and courts, should proceed when non-compliance is found. Without clear guidance or a dedicated regulator, enforcement of the Code is unlikely to materialise.

Given the apparent reluctance of both the PSNI and the courts to enforce provisions of the 1985 Order (such as the regulation of gaming machines^{xiii}), it is likely that without specific guidance on enforcement, they will be unlikely to enforce this Code. As such, the Code should clearly define the roles and responsibilities of the Department, District Councils, the PSNI, and the courts in monitoring and enforcement of its provisions. It should also outline processes for reporting breaches, investigating them, bringing cases to court, and enforcing compliance.

Under Articles 27, 28, 72, 92 and 149 of the 1985 Order, “any person” can apply to a court for the revocation of a licence. In Article 42, the Department is named as the appropriate body to

^{xiii} APG on Reducing Harm Related to Gambling (2022): [Inquiry Report: Gaming Machines in Northern Ireland](#), pp. 17-8

take court action in the case of track betting licenses. The Department already has the power, therefore, to take enforcement action against certain breaches of its own Code (in the case of track betting licenses).

The Department should outline in the Code how it and other relevant statutory authorities (PSNI, the courts, District Councils) will act against serious or repeated breaches and utilise their powers under the 1985 Order to bring cases of non-compliance to the courts for revocation of licenses where appropriate.

Gambling on Credit

We commend the inclusion of measures to ban gambling using credit card payments in the Code. As the APG previously recommended^{xiv}, Northern Ireland should urgently be brought in line with Great Britain in this regard, where a similar ban has been in place since April 2020.

However, while this is a positive step, the potential for loopholes must be addressed. There are instances in Great Britain where individuals have circumvented a ban by using services like PayPal or Klarna to process credit card payments separately, and then proceed to gamble with the funds. The Department should take steps to close such gaps, ensuring that efforts to prohibit gambling on credit are robust and difficult to bypass.

Automated Teller Machines

The APG commends the inclusion of provisions to ban ATMs within premises for which a premises for which a bookmaking office licence, bingo club licence or a pleasure permit under is authorised under the 1985 Order. However, it is a glaring omission that holders of amusement permits under the 1985 Order, including adult gaming centres, are excluded. Gaming machines,

^{xiv} APG on Reducing Harm Related to Gambling (2021): [Inquiry Report: Future Regulation of Gambling in Northern Ireland](#), Recommendation 3

which constitute virtually the sole offering in adult gaming centres, are among the most addictive and harmful gambling products available.^{xv}

The ready availability of cash through ATMs located near these centres directly undermines the fundamental objectives of the Code, enabling and exacerbating gambling-related harm.

We strongly recommend extending the ATM ban to include all premises operating under amusement permits.

Special provisions with respect to children and young persons

The Code states that no payment or bet should be accepted from any customer, regardless of age, who fails to provide an appropriate form of age verification when requested by a person providing facilities for gambling or an employee acting on their behalf. However, in paragraph 4.2, it is specified that employees may choose to seek proof of age “only from individuals who appear to be younger than 25” or who they suspect may be below the legal gambling age. This creates a clear contradiction between the two sections of the Code.

On the one hand, the Code stipulates that age verification should be required, when requested, from all customers, without exception. On the other hand, only individuals who appear younger than 25 or are suspected of being underage are asked to prove their age. This inconsistency could be exploited by operators -and lead to confusion among employees- in relation to age verification.

Age verification requirements should be consistent within the Code, ensuring that all customers are treated equally, and that proof is consistently requested whenever there is any doubt about a customer's age.

^{xv} xiii

The APG further recommends that the prohibition inviting, causing or permitting an individual under the age of 18 to engage in gambling activities should extend to lower prize "Amusement with Prizes" (AWP) machines, as these machines pose significant risks of harmful gambling for under-18s, particularly as they have the same stake limit as AWP higher prize machines. Age limit notices should similarly reflect this and should be mandatory for all gaming machines in Northern Ireland.

Advertising

Section 6 of the Code states that “no advertising, marketing etc. of gambling services and products should ever be targeted at people below the statutory legal age for gambling.” To meet this obligation, it is recommended by the Department that gambling operators comply with relevant guidance and codes issued by the UK Advertising Standards Authority (ASA) and the Committee of Advertising Practice (CAP).

Members of the APG have raised serious concerns about the enforceability of these measures in Northern Ireland. We understand that the Department does not have remit for online advertising, and as such has deferred to the authorities in Great Britain. However, there are significant problems with this approach.

The ASA is a self-regulatory body that relies on the GB Gambling Commission to enforce compliance when gambling operators repeatedly breach its guidelines. In recent correspondence with the APG, the ASA stated:

While bricks-and-mortar operators are regulated by the NI government and online operators from the UK and ROI are regulated under the GB Gambling Commission, in reality, it's mostly the 'big boys' putting out all the ads. These will be captured under our usual approach to regulating gambling ads.

However, this approach overlooks a critical issue: the GB Gambling Commission has no enforcement powers in Northern Ireland. As a result, the ASA's reliance on referring breaches to the Commission is ineffective for ads shown or targeted in Northern Ireland which are in breach of the Code.

The ASA further stated:

Currently, if the ASA receives complaints about a gambling ad running in Northern Ireland, we will consider it under the UK Advertising Codes. If we suspect that the ad is in breach of the law in Northern Ireland, we will refer the complainant to our contact at the Police Service of Northern Ireland (PSNI).

However, the PSNI has explicitly stated that their remit does not include online advertising, which is a reserved matter. In correspondence with the APG, the PSNI confirmed:

The PSNI have no responsibility for advertising offences in Northern Ireland. This clearly falls under the remit of the ASA.

This lack of clarity creates a regulatory grey area. If a gambling operator persistently breaches ASA codes in Great Britain, the ASA can refer the matter to the Gambling Commission, which has the authority to take enforcement action. However, this process is unavailable to individuals and organisations in Northern Ireland due to the Commission's lack of jurisdiction.

It is our understanding that the Department is also consulting with the ASA on the Code, and that work is ongoing to clarify the exact enforcement mechanisms and responsibilities for advertising breaches in Northern Ireland. While this is a positive step, we would suggest that, without conclusively resolving the inconsistency between the ASA's stated approach and the actual enforcement gap created by the Gambling Commission's lack of jurisdiction here, the measures outlined in the Code will be ineffective.

The APG recommends that the Department establish clear lines of accountability between the PSNI, the ASA, and the GB Gambling Commission to ensure there is a mechanism for enforcing advertising standards in Northern Ireland. The guidance on advertising within the Code should explicitly define the roles and responsibilities of each organisation, establish a clear and efficient process for addressing breaches, and outline how enforcement actions will be effectively coordinated to ensure compliance.

Self-exclusion

The Code stipulates that gambling operators "should operate a customer self-exclusion scheme and make self-exclusion available to any customer who wishes to avail of it," for a minimum of six months. Such individuals must also be directed to advice and support tools for gambling-related harm published by NI Direct.

While the inclusion of self-exclusion schemes is a welcome measure, the APG has concerns regarding the practical implementation and accessibility of these schemes.

A key question is how the Department intends to ensure that self-exclusion schemes are effective across operators. Without a centralised, NI-wide approach, individuals experiencing gambling harms will simply be able to move from one operator to the next, rendering their self-exclusion meaningless.

As the APG has previously argued,^{xvi} a multi-venue self-exclusion system should be established in Northern Ireland, similar to the Multi-Operator Self-Exclusion Scheme (MOSES)^{xvii} in Great Britain or the multi-operator system in New Zealand,^{xviii} which facilitate self-exclusion across

^{xvi} APG on Reducing Harm Related to Gambling (2021): [Inquiry Report: Future Regulation of Gambling in Northern Ireland](#), Recommendation 11

^{xvii} <https://self-exclusion.co.uk/>

^{xviii} ^{xvi}, p. 17

multiple venues. Such a system would provide individuals with a streamlined and comprehensive mechanism to protect themselves from gambling-related harm.

Another significant concern pertains to the monitoring and enforcement of self-exclusion measures. In practice, it is likely that the first individuals to become aware of an operator's failure to provide a self-exclusion scheme—thereby breaching the Code—will be those who have requested to self-exclude. These individuals, by definition, are among the most vulnerable to gambling-related harm and should not bear the burden of monitoring compliance with regulations designed to protect them.

The APG strongly urges the Department to clarify the mechanisms it will employ to ensure adherence to self-exclusion requirements and to provide a detailed outline of how breaches will be identified and addressed.

Gaming Machines

The initial Code lacks any reference to gaming machines. This is a disappointing omission, given that the previous Codes of Practice which were subject to a consultation exercise in 2022^{xix} contained extensive guidance for operators on gaming machines, including on:

- The number of permitted gaming machines per location
- The manufacture and supply of gaming machines
- Testing of gaming machines
- The structural characteristics (e.g. minimum spin speeds; time and spending limits) of high stakes gaming machines

^{xix} Department for Communities (2022): [Betting, Gaming, Lotteries And Amusements \(Amendment\) \(Northern Ireland\) Order 2022 Gambling Codes Of Practice](#)

Critically, the previous draft Code also reiterated the Department’s position that so-called fixed-odd betting terminals (FOBTs), in Northern Ireland are gaming machines, and as such should be subject to much lower stakes and prizes than currently instituted in many venues, as per the 1985 Order.^{xx} This is a significant point to omit from the present Code, particularly as land-based gambling operators are frequently in breach of the law on this point, and the PSNI and the courts have been reluctant to pursue the matter. Moreover, as the APG detailed in its inquiry report on gaming machines^{xxi}, these products are the source of some of the most severe harms for individuals and communities among land-based gambling in Northern Ireland.

The Code should contain provisions on the lawful supply and operation of gaming machines in Northern Ireland, and should reiterate that so-called fixed-odd betting terminals (FOBTs) are gaming machines under the 1985 Order, and should therefore be subject to the stake and prize limits outlined in the 1985 Order.

Review of the Code

In discussions with the APG, the Department indicated that the Initial Code could be reviewed on a timescale similar to that of the 2022 Act, i.e. every five years. It was suggested that this timeframe would allow enough time for the outcomes of the Code to fully unfold, enabling a comprehensive evaluation. However, a five-year review period is far too long, considering the urgency and widespread nature of gambling-related harm, and the fact that the Code is meant to be a flexible, responsive tool. We would note that the Gambling Commission continually reviews and updates its Licence Conditions and Codes of Practice, with multiple changes being made per year.^{xxii} While we understand that the Commission is comparatively better resourced

^{xx} Article 108, 6-16, Use of gaming machines on other premises, Betting, Gaming, Lotteries and Amusements (NI) Order 1985

^{xxi} ^{xiii}

^{xxii} Gambling Commission (2024) - [Previous changes to the LCCP](#)

to do this, the Department should allocate resources to conduct reviews of the Code on a regular basis, and in any event no longer than two years, to ensure it remains responsive and effective.