

Online Voluntary Self-Exclusion Schemes

Recommended Standards for Online Voluntary Self-Exclusion – Code for Operators **May 2024**

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1. Section I – Introduction

1.1. Background to the project

Online gambling is a popular activity in many jurisdictions across the various continents and in legalised environments, the industry makes a substantial contribution to the States' economies. Revenue from online gambling have reached \$95.05 billion US dollars in 2023 and it is expected to show an annual growth rate of 8.54%¹. The vast majority of gambling is carried out on a recreational basis and does not cause long-term negative consequences. However, it is equally well known that gambling may cause gambling disorder that may lead to severe negative consequences and that there is a spectrum of gambling related harms that affect individuals, their families and the society as a whole. Negative consequences may affect financial and psychological wellbeing of the individuals, their communities and may create additional societal costs as well. Those relate to financial, social and medical support that may be required to be offered to the gamblers and their families but also extends to losses in productivity and potential increases in anti-social or criminal behaviour². This often means that legalisation of gambling must be accompanied by social responsibility measures, otherwise referred to as safer gambling tools or safer gambling initiatives. They are typically imposed on the industry and sometimes on third parties by the regulators / policy makers in order to minimise gambling related harm. Those, however, can be very varied across jurisdictions. They range from the most basic condition that operators must provide relevant safer gambling information on their websites, through the need to set up a facility that either allows players to set their own financial and / or time limits, or to impose such limits mandatorily; to monitor player behaviour and interact if at-risk playing is identified, to the requirements to offer customers the opportunity to self-exclude, either from a specific gambling operator, from a range of gambling operators or, through centralised schemes from a range of different operators, either online or from within any specific geographical location. The actual packages of measures adopted within any given country are determined by the respective regulators / relevant legislative authorities and differ substantially. Not only the selection of what safer gambling tools must be offered varies but also the individual rules that govern how the same tools are implemented differ. There is no international convention or

¹ www.statistica.com, last retrieved in August 2023.

² M Carran, *Gambling Regulation and Vulnerability*, Edward Elgar Publishing 2018

other formal international agreement that would harmonise the implementation of safer gambling measure. Even at the European Union level alone no common principles are effectively applied. The European Commission Recommendation 2014/478/EU aimed to initiate standardisation of online gambling rules across the European Member States. In the context of self-exclusion it broadly recommended that such options should be available to all players for a minimum period of 6 months³, encouraged Member States to create national self-exclusion registers⁴ and specified that self-exclusion should be generally initiated by the players' themselves⁵ or, if that was too restrictive, Member States should prescribe specific rules relating to third parties' exclusion⁶. Even though those recommendations are broad in nature and relatively rudimentary, they still have not been consistently adopted making it clear that the Recommendation failed to nudge Member States to standardise their approach to safer gambling⁷. Even more variations can be seen when the geographical scope is extended beyond the European Union making social responsibility tools specific to individual countries. This means that players are exposed to varied levels of protection, gambling operators have to comply with several sets of different, and sometimes contradictory rules, and measurement of effectiveness of any specific component of the tools is very difficult, if not impossible. The lack of commonality extends to the terminology. Different terms are often used interchangeably to describe the same phenomenon while at the same time the same terms are used to denote different concepts depending on the context and the relevant jurisdiction.

Variations of self-exclusion schemes relate to the broad requirements as well as to the specific implementation rules. Those are summarised below and each of them individually and cumulatively are likely to impact how effective self-exclusion schemes are⁸:

- The majority of jurisdictions with legalised gambling impose a legal/regulatory obligation on gambling operators to offer self-exclusion but this is not a legal

³ EU Commission Recommendation 2014/478/EU, Art.33

⁴ EU Commission Recommendation 2014/478/EU, Art.37

⁵ EU Commission Recommendation 2014/478/EU, Art.35

⁶ EU Commission Recommendation 2014/478/EU, Art.36

⁷ M Carran, 'Consumer Protection in EU Online Gambling Regulation: Review of the Implementation of Selected Provisions of the European Commission Recommendation 2014/478/EU across EU Member States – Follow up Study', November 2021.

⁸ T Hayer, G Meyer, 'Self-Exclusion as a Harm Minimization Strategy: Evidence for the Casino Sector from Selected European Countries' (2011) 27 Journal of Gambling Studies 685

requirement everywhere. In other countries providers or some of them offer such programmes on a voluntary basis or it is not available.

- The duration of the schemes vary from 24 hours to permanent. The minimum duration of 24 hours or 7 days exist in jurisdictions that do not distinguish between self-exclusion 'proper' and 'time-outs'. The maximum duration vary from 12 months to indefinite / life-time periods.
- In some jurisdictions temporary self-exclusion is irrevocable during the duration of the scheme, while in others it may be revoked either with or without prior conditions having to be met. Even in countries that formally do not allow revocation of temporary self-exclusion, there may be circumstances where this may be permitted⁹. Similarly, permanent exclusion may or may not be revoked but almost all jurisdictions permit revocation of an indefinite ban. However, even permanent exclusion in some countries does not necessarily mean that literally but may limited to a duration of 5, 7 or 12 years.
- Some countries maintain national self-exclusion registers while others do not.
- Self-exclusion may terminate automatically upon expiry of the stipulated duration or it may only be terminated upon a player taking 'an active step' to withdraw from the scheme. What is meant by an 'active step' varies.
- In most jurisdictions self-exclusion can only be initiated by the individual who wishes to self-exclude. However, in some countries, exclusion can be forced by third parties that include operators, family members and other stakeholders. Forced exclusion may require a court order or may be done at the instance of the third party. In some countries, statutory provisions include lists of specific individuals and professional who are barred from gambling automatically.
- Some jurisdiction prescribe specific rules for initiations and termination of exclusion, in others, the precise method may be determined by the license holders.
- Different consequences may accrue to self-excluders and license holders for breaches of the self-exclusion schemes¹⁰.

⁹ See, e.g., the English case of *The Ritz Hotel Casino Ltd v Al Geabury* [2015] EWHC 2297

¹⁰ M Carran, 'Consumer Protection in EU Gambling Regulations - Review of the implementation of selected provisions of the European Commission Recommendation 2014/478/EU across EU Member States. Follow Up Study' November 2021

Such variation was less problematic when gambling was a predominantly land based activity but even then it was not uncommon for gamblers to travel to neighbouring states to access land based casinos in another jurisdiction¹¹. This was likely to be only feasible to individuals whose residence was relatively close to the geographical borders or while on holidays and was less of a concern but this no longer can be deemed to be a valid argument. The current significant proliferation of online gambling means that a substantially greater number of players may be exposed to a variety of practices and degrees of safety standards and may be expected to follow different processes of various levels of complexity.

It may be argued that, in practice, this is not a risk worth considering. With the exception of a small number of jurisdictions, such as Malta, that operate on a reciprocal basis within European Union and / or other white-listed countries, most legalised frameworks require operators to be licensed in each individual jurisdiction where they target players. As such gamblers should only be exposed to one set of regulations, those of their home country. However, in practice evidence shows that this is not necessarily so and players not only may access sites that are unlicensed and inherently illegal but also those that are regulated albeit by a different State. Evidence collected by Casino Guru shows that affiliate websites commonly receive traffic from search engines that look for 'best online casinos' irrespective of their license status. The analyses provided by Ahrefs.com that focuses on search trend analysis estimated that searchers for specific operators without a local license ranged from 6% to 98%¹². Those include searches for online casinos that are unregulated and / or based outside the searcher's jurisdictions that can be accessed with or without a VPN connection. While no robust evidence can be gathered as to whether those sites are subsequently accessed for the purpose of gambling following such a search, it is legitimate to assume that some may lead to this.

The above is not the only reason as to why standardisation of safer gambling tools would be highly beneficial not only to individuals but also to regulators, researchers and other stakeholders. Harmonisation of approaches would ensure consistent level of protection that is offered to gamblers regardless of where they choose to play and it would allow individuals

¹¹ S Lischer, J Schwarz, 'Self-exclusion and Imposed Exclusion as Strategies for Reducing Harm: Data from Three Swiss Casinos' (2018) *Journal of Gambling Issues* 000.

¹² Data provided by Casinos Guru, August 2023

to more easily identify, by lack of conformity / compliance, those sites that are indeed illegal, even if they may be claiming to be legitimate. For regulators, it would likely make their enforcement efforts easier and it would significantly contribute to better evaluation of safer gambling tools' effectiveness. This, in turn, would better support evidence-based regulatory and policy decision making and would contribute to better awareness among and better education of the public of what does or does not really work. Currently, while research in this area is increasing, there is still a substantial paucity of robust evidence that would offer a more definitive proof of the relative utility and benefits of different safer gambling tools and many empirical studies suffer from material limitations. While this gives a leeway to politician and regulators to adopt measures that they consider adequate, it undermines claims that regulation is evidence-based.

As a contrary argument, it may be advanced that standardisation of rules would be counterproductive rather than helpful. Gamblers do not represent a homogenous group but are composed of very different individuals with different motivations for gambling and different needs of what may be required to facilitate safety. Gambling disorder is also a complex condition that affects individuals with a varying degree of seriousness and intensity and cultural differences may affect how players respond to specific initiatives. Individual countries also have different policies regarding their priorities and while most emphasise the need to offer gambling in a safe, regulated and controlled environment, some adopt a strict version of a public health approach¹³ while others prefer a limited libertarianism. There is also a risk that harmonisation may lead to only minimal standards being adopted and could hinder advancement in consumer protection as countries where regulation is still at its infancy could not match regulations in countries whose frameworks are already fully advanced and developed. While those arguments are recognised and accepted as legitimate, it is submitted that the first one points to the need for a comprehensive package of different measures that would address complex scenarios rather than the need to differentiate how specific measures are implemented across jurisdictions and the second highlights the need to work at an international level to help countries with emerging gambling regulation with their progress. Furthermore, cultural differences, while important, cannot realistically justify the current level of variations as studies show that psycho-social and other characteristics of gamblers

¹³ Such as New Zealand

share very high degrees of similarity regardless of their geographical locations. This is why, our project aims to contribute to this debate but encouraging regulators and other stakeholders to recognise the benefits of standardisation and to help players and the industry.

1.2. Aims and scope of the project

This project's ultimate purpose is to identify and develop global standards relating to online self-exclusion and to advocate the adoption and further development of those standards internationally in a coherent and consistent manner across various jurisdictions. The scope of the project is confined to the online gambling self-exclusion scheme and does not extend to other safer gambling tools.

The short terms goal of the project is to nudge regulators and other stakeholders to resume conversation about the benefits of better harmonisations of consumer protection in light of the impact that the internet and artificial intelligence has on the industry.

The project focused on recommending international standards that relates to self-exclusion from gambling websites / gambling applications only. As such, it does not relate to any potential self-exclusion schemes that may exist to allow people to exclude themselves from social media, video games or other activities that may lead to harmful consequences.

1.3. Methodology

The project methodology followed a three stage approach.

(1) Firstly, rapid review of academic and non-academic international literature has been carried out by the chair of the project with the assistance from two students who were registered on a full time programme at City, University of London. This was carried out between April 2023 and September 2023. The purpose of the literature review was to identify existing regulations that exist across different jurisdictions, determine what is considered to represent best practice and to consider relevant studies that evaluated the effectiveness of self-exclusion schemes on gambling harm minimisation. This research was carried out using Google Scholars, Web of Science, PubMet, Research Gate as well as City, University of London's electronic databases. No paper-based search in a physical library was deemed necessary as all relevant articles that would have been published post 2012 are now accessible online. The research terms that were used for this purpose, in various combinations, were: self-exclusion, self-exclusion scheme, international self-exclusion,

duration, problem gambling prevention, safer gambling initiatives, initiation, stigmatisation, effectiveness, impact, consequences, third party's exclusion, gambling harm minimisation, regulation of self-exclusion, national registers, barriers to self-exclusion, licence codes and conditions. Most search terms produced a very similar list of publications albeit in a different order of displays. However, overall only a small number of articles that specifically focused on evaluating individual elements of online self-exclusion were identified. Articles were considered for the purpose of the study if they met the following criteria: they were either peer-reviewed or published by an independent gambling-related organisation / regulatory body; published in the last 10 years, published in English, and included consideration of, at least, one of the individual components of self-exclusion schemes.

(2) The second stage of the project involved extensive analysis of existing evidence and deliberations carried out by the project working group composed of professionals working in a gambling-related field¹⁴. Those experts were recruited to represent all different stakeholders' groups and included representatives from academia, gambling industry, treatment professionals, sustainability in gambling teams, regulatory body, safer gambling teams, those with lived -in experience and members of a public. The group had representatives from 6 different countries across 3 continents (Europe, North America, Africa). The meetings took place face to face and online over the course of 9 months between September 2023 and April 2024. The meetings were arranged by Casino Guru but were facilitated and led by the chair of this project. Through extensive deliberations, all stakeholders reviewed existing evidence base, applied their own professional knowledge and expertise, and reached a consensus that resulted in the draft set of recommendations. The deliberations were focused on the following topics: purpose of voluntary self-exclusion, stigmatisation of players who enter voluntary self-exclusion schemes, initiation, termination, duration, duty of the operators during the operation of voluntary self-exclusion, marketing and communication, availability of treatment, referral methods, sustainability of gambling businesses, voluntary exclusion versus forced exclusion, presentation of relevant safer gambling information, organisational cultures, training and other general needs of players

¹⁴ See s.3 for full list of individuals involved with contact details.

and the industry, awareness of safer gambling initiatives and tools, and relationship between voluntary self-exclusion and other safer gambling tools.

(3) The final stage of the project (currently being undertaken) involves a consultation with and seeking feedback on our draft set of recommendations from a wide range of international stakeholders.

1.4. Conflict of interest

The project has been commissioned by Casino Guru, Associate Company with registered office in the Czech Republic. The findings represent recommendations that were agreed upon by the group of professionals involved in the project (as mentioned in s.1.3) and represent own views of the participants. Those views are independent of any organisation and are not endorsed by them. The chair declares that outside the fee paid for leading the project, there is no other conflict of interest.

1.5. Acknowledgement

This evaluation of the current position of what should be recommended best practice for voluntary online self-exclusion would not have been possible without the willingness of the project group members to actively engage with the project and to offer their time and expertise. Accordingly, special 'thank you' goes to all members of the project working group for their active participation, ideas and vigorous debates. Additionally, another 'thank you' needs to be given to anyone who will critically review our draft recommendation and will provide feedback in response to our call for consultation as this will allow us to ensure that the final set of recommendation truly reflect best practice.

2. Draft – Online Voluntary Self-Exclusion Recommendations – Code for Operators

Online Voluntary Self-Exclusion Practice Recommendations.

Code for Operators.

1. Purpose

- 1.1. To encourage the provision of self-exclusion schemes in all jurisdictions irrespective, of whether such schemes are mandatorily required or not.
- 1.2. To highlight the need for further discussions among the industry and the regulators regarding online voluntary self-exclusion best practices.
- 1.3. To encourage standardisation of requirements for online voluntary self-exclusion across different jurisdictions.
- 1.4. To facilitate destigmatisation of online voluntary self-exclusion.
- 1.5. To encourage normalisation of the online VSE as a tool for harm-minimisation that may be needed and/or beneficial to anyone at some points in time, in addition to other safer gambling tools and measures.
- 1.6. To outline in one easy document recommended guidelines for the operation of voluntary self-exclusion schemes.**

2. General Principles - Voluntary self-exclusion should be available to all gamblers in all jurisdictions.

2.1. Voluntary self-exclusion scheme should be offered by every operator.

- 2.1.1. Where national self-exclusion registers exist, operator's scheme should be offered in addition to the national provisions so gamblers can register simultaneously on both or can choose to register with only one of them.

2.2. Voluntary self-exclusion should enable the gambler:

- 2.2.1. To exclude themselves from all gambling activities provided by the operator, or
- 2.2.2. To exclude themselves from selected gambling activities provided by the operator.
- 2.2.3. Exclusion from all gambling activities should trigger exclusion from all activities offered by the operator, unless the gambler specifically requests exclusion to apply to a specific jurisdiction or specific line of business or specific brand only.
- 2.2.4. Operators should ensure that this choice is clearly communicated to the gambler and is made expressly by the gambler.

3. VSE Awareness Raising and De-stigmatisation – all operators should ensure that gamblers are notified about the availability and nature of voluntary self-exclusion and other safer gambling tools during online gambling account registration, through information located in a permanent place on the site and as part of an ongoing periodical and targeted communication.

3.1. Information provided during gamblers' registration for online gambling account should:

- 3.1.1. Be concise, unobtrusive and engaging in light of the operators' target audience.
- 3.1.2. Be written in a neutral, non-judgmental language.

- 3.1.3. Not be dismissive or derogatory and should not attempt to dissuade gamblers through UX design from engaging with the VSE.
- 3.1.4. Be integrated into the standard gambling account opening process.
- 3.1.5. Be separate from other terms and conditions.
- 3.1.6. Be separate from other contractual information.
- 3.1.7. Require positive affirmation that it has been understood.

3.2. Information provided on the operators' websites / within applications should:

- 3.2.1. Be detailed and engaging in line with the operator's target audience.
- 3.2.2. Include direct link/entry button to where VSE can be initiated.
- 3.2.3. Be accessible directly from operator's home page / application menu.
- 3.2.4. Located in a prominent position on the website or as a separate line within the application menu.
- 3.2.5. If located in the footer of the website, this should be in addition to 3.3.2.4.
- 3.2.6. Include interactive elements that facilitate active engagement by gamblers such as self-assessment tools or quizzes, etc.
- 3.2.7. Include information of third parties' treatment providers, support services and other relevant links such financial or housing support, where such services are available.

3.3. Operators should periodically check how easy it is to access information about voluntary self-exclusion by directly asking their gamblers for feedback.

3.4. Operators should create an ongoing communication schedule that will remind gamblers at specific intervals about the availability of self-exclusion options and other safer gambling tools at their disposals. Social responsibility messages should be included in marketing communications but should also be promoted thorough separate, stand-alone targeted campaigns. Those should:

- 3.4.1. Be clearly distinguished from any communication that aims to incentivise gambling.
- 3.4.2. Encourage gamblers to make use of all available safer gambling tools including limit setting, reality checks, diaries, and similar.
- 3.4.3. Assist in normalising the use of safer gambling tools by all gamblers.
- 3.4.4. Be relevant and personalised to the individual gambler, ideally based on their gambling behaviour.
- 3.4.5. Intended to model positive and safe gambling behaviour.
- 3.4.6. Be varied to prevent desensitization to the messages being conveyed.

4. Initiation of voluntary self-exclusion:

- 4.1. Operators' should ensure that voluntary self-exclusion can be initiated without any barriers.**
- 4.2. Operators should ensure that gamblers can initiate self-exclusion at the first point of contact without any requirement to speak to another person.**
- 4.3. Initiation of VSE should not be prevented or delayed on account of identity verification of the gambler or on account of funds still being available in the gambling account.**

4.4. Operators should offer a variety of options to initiate voluntary self-exclusion. These should include:

4.4.1. Initiation within the gamblers' gambling accounts:

- 4.4.1.1. VSE registration place should be accessible in line with recommendation 3.3.2.2.
- 4.4.1.2. Information provided on the direct VSE initiation place should be concise, and limited to essential information about the nature of the self-exclusion, the commitment required from the gambler, and details of how the gambler can access treatment, as well as financial and other forms of support during their VSE.
- 4.4.1.3. Operators should ensure that VSE initiated within a gambling account commences automatically without any additional requirements being imposed on the gambler.

4.4.2. Initiation through non-simultaneous communication methods outside of gamblers' gambling accounts:

- 4.4.2.1. Gamblers should be able to initiate voluntary self-exclusion without accessing their online gambling account through a variety of communication channels (emails, text messages, and others).
- 4.4.2.2. Contact details to initiate VSE through non-simultaneous communication should be easily accessible to gamblers on operators' websites and in all their marketing and non-marketing communications.
- 4.4.2.3. Operators should ensure that self-exclusion requests are time-stamped (electronically or otherwise) upon receipt.
- 4.4.2.4. Operators should ensure that self-exclusion entered into by non-simultaneous communication methods is initiated within 48 hours of the receipt of communication.

4.4.3. Initiation through simultaneous communication method outside of gamblers' gambling accounts:

- 4.4.3.1. Gamblers should be able to initiate voluntary self-exclusion through direct contact with a customer service department of the gambling operator.
- 4.4.3.2. VSE initiation should be able to be carried out by the first person who accepts simultaneous contact from the gambler.
- 4.4.3.3. Operators should ensure that VSE initiated through simultaneous communication method commences automatically upon confirmation of the wish to enter the scheme.

- 4.4.4. Operators should review how they allow gamblers to self-exclude on a regular basis and evaluate how artificial intelligence / automated processes may be used to further facilitate access.

5. Operators' responsibilities following entry into voluntary self-exclusion by the gamblers.

- 5.1. Operators must devise robust policies and procedures that will prevent breaches of voluntary self-exclusions.
- 5.2. Activation of voluntary self-exclusion should be followed by:
 - 5.2.1. Removal of the gambler from all marketing activities undertaken by the operator.

- 5.2.2. Non-commercial communication with the gambler within 3 days of voluntary self-exclusion initiation.
 - 5.2.2.1. This should include relevant information about possible treatment available in the given jurisdiction, self-treatment strategies, other relevant safer gambling messages as well as information about the self-exclusion itself.
 - 5.2.2.2. This information should be sent via post and via email/alternative electronic method to the self-excluded gambler.
 - 5.2.2.3. This information must be unbranded and devoid of any potential marketing messages and must be clear from the email title that it includes information about available support.
- 5.2.3. Return of all funds available in the gambling account within 24 hours of VSE's initiation.
 - 5.2.3.1. The funds should be returned to the customer's payment methods from which the deposit originated unless refund to the original payment method is not possible.
 - 5.2.3.2. In those circumstances, customers should be given the opportunity to provide details of alternative refund options.
 - 5.2.3.3. Any communication regarding refunds should be devoid of any marketing content.

6. Duration

6.1. **The duration of voluntary self-exclusion should be selected by the gamblers from the options offered by the operators.**

- 6.1.1. Operators should offer gamblers the option to voluntarily self-exclude for the durations of 6 months, 12 months, 24 months, 5 years or permanently.
- 6.1.2. The minimum duration of voluntary self-exclusion should be set at no less than 6 months. The operators should permit permanent self-exclusion and should not impose any mandatory maximum duration unless permanent voluntary self-exclusion is prohibited within the operator's jurisdiction.

6.2. Irrespective of the provision of paragraph 7.1.1. and 7.1.2 operators should ensure that gamblers are able to restrict their gambling activities during specific dates/times on a regular and recurring basis (such as weekends, paydays, major national sport events) without the need to enter into a voluntary self-exclusion agreement.

7. Panic button

7.1. **Gambling websites should include a 'panic button' that allows gamblers to instantly block their ability to gamble on the given website/within the given application for a period of 24 hours.**

- 7.1.1. Panic button should be located on all pages accessible to the gamblers or within the application's menu.
- 7.1.2. The location of the panic button should minimise the risk of the panic button being activated accidentally.
- 7.1.3. Activation of a panic button should automatically trigger contact with the customer by safer gambling team, within 3 days of activation, to determine whether any further support should be offered or whether other interaction may be beneficial for the player. If activation occurs on consecutive days such contact should only be made after the first activation or if there has been more than 3 weeks break between them.

7.1.4. The existence of a panic button should complement and not replace other short term play-breaks / time-outs as those may be mandated by the operators' specific jurisdictions.

8. Termination

8.1. **Voluntary self-exclusion should continue for the full duration of the period that was selected by the gambler.**

8.1.1. Temporary VSE should not be revocable regardless of the reasons why that VSE was initiated unless the original registration was fraudulently completed by third parties.

8.1.2. Permanent VSE should be revocable only upon the expiry of the maximum stipulated period of 5 years.

8.2. **Voluntary self-exclusion should not terminate automatically but should require gamblers to take an 'active step' to resume gambling.**

8.2.1. Gamblers should not be reminded that their VSE period is due to expire or has expired.

8.2.2. Gamblers who wish to reinstate their gambling account should notify the operators of their wish to resume gambling. This notification should be in a form that enables a record to be kept.

8.2.3. Operators should impose a minimum cooling off period of 24 hours before the account is then reinstated unless the jurisdiction requires longer period in which case the longer period should be imposed.

8.3. **Returning gamblers should be categorised as gamblers with higher risk of experiencing gambling harm and should be supported through enhanced monitoring by the operators:**

8.3.1. Returning gamblers should be required to set up financial limits, which should apply to their accounts for a minimum of 6 months. This may take the form of either a loss limit or a deposit limit. Additionally, the gambler should set a time limit.

9. Organisational culture

9.1. Operators should ensure that everyone in their organisation has training and awareness of the voluntary self-exclusion scheme.

9.2. Training should be offered, as a minimum, on an annual basis and refresher courses should be provided at periodical intervals.

9.3. All operators should have an independent individual(s) or a team dedicated to voluntary self-exclusion.

9.4. Dedicated individual(s) may be appointed within the organisation itself or this task may be delegated to an independent third party.

9.5. Designated person(s) / teams should be of sufficient seniority to ensure accountability and to ensure that they are part of teams that take strategic and operational decisions.

9.6. Their internal rank and status should equal those afforded to individuals responsible for the commercial side of the operator.

9.7. They should be responsible for strategy relating to, and oversight of, the voluntary self-exclusion scheme.

10. Glossary

10.1. **Voluntary self-exclusion** is used interchangeably with the term **self-exclusion**. It means a scheme for a period of time, irrespective of actual duration, whereby a gambler voluntarily

requests their gambling providers to prohibit them from accessing gambling activities, either as a whole or partially. This will include temporary, short term break, time-outs, and other pauses but will exclude any suspensions that would fall under the definition of forced exclusion below.

10.1.1. Temporary VSE is defined as an exclusion with a stipulated commencement and end point.

10.1.2. Permanent VSE is defined as an exclusion that is intended to operate indefinitely.

10.1.3. Partial VSE is defined as an exclusion from only some forms of gambling offered by the operator.

10.1.4. Complete VSE is defined as an exclusion from all forms of gambling offered by the operator.

10.2. **Initiation** – this term represents the process by which gamblers request the operators to exclude them from being able to gamble on their website(s) / within their application(s).

10.3. **Termination** – this term represents the process by which gamblers' voluntary self-exclusion period comes to an end regardless of whether the gambler wishes to reinstate his ability to engage in gambling activities or not.

10.4. **Panic button** – form of a request for a time-out (separate and independent from formal self-exclusion) that prevents gambler who pressed on the link from engaging in any form of gambling offered by the given operator for 24 hours.

10.5. **Online Operator** – A business or commercial organisation that offers gambling activities to customers, including all their brands and subsidiaries that can be accessed directly online or through an online platform or through an application.

10.6. **Forced / third party's exclusion** – exclusion that is initiated on behalf of the gambler by a third party such as a relative or an operator or exclusion that is due to any legal or statutory provisions applicable within the given jurisdiction.

10.7. **Simultaneous communication** – means a communication that takes place in real life at the same time between the customer and the operator. This may take the form of discussion in person, over the phone, via life-chat but will exclude communication with bots or other forms of automated communication.

10.8. **Non-simultaneous communication** – means a communication that does not take place in real life at the same time between the customer and the operator. This will include communication via emails, text messages, letter or other forms that are not instant.

3. List of Project Group Members

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4. Snapshots of selected jurisdictional approaches towards self-exclusion

4.1. United Kingdom

The online gambling market in the United Kingdom is heavily regulated by the UK Gambling Commission, created by the Gambling Act 2005 that also formalised the provision of gambling facilities through the internet. Currently, the gambling regulation is undergoing another legal revision, contained in the White Paper, launched by the government. The White Paper proposes to introduce additional requirements on online gambling operators in response to arguments that online gambling presents heightened risks. It proposes to harness better the technological possibilities that would enable operators to check on players as to whether their gambling is or may be causing financial harm¹⁵. Such checks, if introduced, are likely to represent another step that may lead to specific interventions that may include encouraging players to self-exclude.

The provision of a self-exclusion scheme is mandatory and must be offered by all operators licensed by the UK Gambling Commission¹⁶. It allows users to ban themselves from gambling websites on an individual basis, if they choose so, but individuals may also self-exclude from all licensed online gambling providers by registering with the UK national self-exclusion register GamStop. Since 31st of March 2020 all businesses licensed to provide online gambling services to individuals in Great Britain must be part of the GamStop scheme. This launched officially in 2018 and is run by a non-profit limited liability company that is authorised and overseen by the Gambling Commission. It is available to anyone residing in the United Kingdom and the Northern Ireland and extends to all online games except lotteries.

Self-exclusion durations are set at 6 months, 1 year or 5 years. However, shorter time outs and cool-down periods of 24 hours or 7 days are also available. However, those are not part of GamStop but are enabled by individual operators¹⁷. Entry onto the self – exclusion register is non-removable until the end of the minimum duration. Upon the expiry of the designated period, this may be extended further for 6 months, 1 year or 5 years. This can be effected by contacting GamStop or directly through the GamStop account. If they gambler wishes to

¹⁵ UK, House of Commons Library; Research Briefing Number 9788 John Woodhouse and Maria Lalic 2 June 2023, <https://researchbriefings.files.parliament.uk/documents/CBP-9788/CBP-9788.pdf>, last retrieved September 2023.

¹⁶ Gambling Commission, UK Licence Codes and Conditions of Practice (2022 edition)

¹⁷ Ibid (Gambling Commission LCCP)

resume gambling they must notify the register and their self-exclusion will end following a 24 hour cooling off period¹⁸. The national self-exclusion register does not notify the players when their self-exclusion period is due to end. If no contact is made, the registration does not terminate automatically but remains active for further 7 years. If no subsequent contact is made after 7 years has lapsed, the registration is then deactivated automatically. There is no permanent self-exclusion and the maximum duration can only be up to 12 years.

It is the responsibility of GamStop to inform all existing and new operators that a player has registered with them. This extends to any operators that obtains a licence and start offering their facilities after the registration of the individual took place. Operators are required to disable / close the gambler's account, refund any funds that may still be remaining, stop as soon as possible any direct marketing communication via text / email / post and must signpost the individual to counselling and other support services¹⁹. The last requirement is shared between operators and GamStop depending on the selected mode of self-exclusion. Even after the self-exclusion periods ends, GamStop continues to inform operators for further 7 years that the user previously held an active self-exclusion. However, operators are not required to undertake any formal assessment as to whether the self-excluded gamblers continues or not to have a gambling related problem or whether they continue to suffer from gambling related harms.

No third party self-exclusion is permitted. The only exception is when a third party has a power of attorney and as such has an overall responsibility for another person's affairs. This is independent from gambling regulations and applies generically in English law. As such self-exclusion can typically be only initiated by the gamblers themselves through taking a positive step. This can be as simple as ticking a box on the website or registering with GamStop. However, gamblers must confirm that they understand the nature and consequences of the programme. Online, this must be clearly explained and over the phone this may include asking additional questions that will check the players' understanding. Gambling operators must also prominently display details of available help and support and they must also directly inform the players that gambling blocking software is available²⁰.

¹⁸ GamStop; www.gamstop.co.uk

¹⁹ Gambling Commission Licence Condition and Codes of Practice (2022)

²⁰ Gambling Commission Licence Condition and Codes of Practice (2022)

Non-compliance with social responsibility measures can result in regulatory and criminal punishment imposed on the operators. Those include financial penalties, suspension or revocation of personal or operating license, and in extreme cases, criminal prosecution.

4.2. Ontario (Canada)

Gambling in the province of Ontario, Canada is regulated and overseen by the Alcohol and Gaming Commission of Ontario (AGCO) that was established together with the Registrar on the 23rd of February 1998 under the authority of the Alcohol, Cannabis and Gaming Regulation and Public Protection Act 1996²¹. The Gaming Control Act 1992 gave the Registrar the authorisation to regulate Ontario gaming market.

AGCO key activities include, among others:

- *“Registering operators, suppliers, retailers/sellers and gaming assistants in the lottery and gaming sectors.*
- *Establishing standards and requirements for the conduct, management and operation of gaming sites, lottery schemes, or related businesses to a gaming site or lottery scheme or for the goods or services related to that conduct, management or operation;*
- *Inspecting and monitoring casinos, charitable gaming events/facilities and retail locations where OLG lottery products are sold for compliance with the Gaming Control Act, 1992 and its regulation, licence/registration requirements and standards and requirements established by the Registrar*
- *Establishing standards and requirements for the conduct, management and operation of gaming sites, lottery schemes, or related businesses to a gaming site or lottery scheme or for the goods or services related to that conduct, management or operation”²²*

Principles relating to self-exclusion are articulated in the Registrar’s Standards for Internet Gaming. The most recent update was carried out in February 2023. Compliance with those standards by ‘registrants, employees and other persons retained by Ontario Lottery & Gaming Corporation (OLG) and iGaming Ontario’ is mandated by s.3.8 and s.3.9 of the Gaming Control

²¹ <https://www.agco.ca/about-us>

²² <https://www.agco.ac/about-us>

Act 1992. OLG is a crown corporation owned by the Canadian government that runs a variety of gaming activities. The issue of problematic gambling is devolved to them by s.2.6 of the Responsible Gambling Regulations.

Online gambling operators are required to ensure compliance with the published standards regardless of who carries out the gambling activities²³. The standards adopt a principle based approach and is risk and outcome based. It outlines the expectations of what must be achieved but leaves the specific methods to the operators on how they wish to ensure compliance. Nevertheless, the provision of voluntary self-exclusion programme is mandatory and must be offered under rule 2.14. The scheme must be promoted sufficiently and must be easily accessible. The initiation of self-exclusion needs to be efficient and support oriented and the operators are expected to signpost gamblers to resources and information about where they can seek help and what other support may be available²⁴. Terms and conditions of the programme needs to include a clearly worded explanations of the players' responsibilities under the agreement, the consequences of self-exclusion and how players can terminate it and return to play safely²⁵.

Similarly to the requirements in the UK, once the self-exclusion is entered into, the operators must close the player's account, any wagers for which events haven't yet commenced must be terminated and refunded together with any remaining funds that may still be credited to the account. Self-excluders must be removed from marketing communications and those include any details about bonuses or other incentives. The duration of the scheme must offer the options of 6 months, 1 year and 5 years. Additionally, short breaks and timeouts of one day, one week, one month, two months or three months must also be available²⁶.

The Ontario Lottery & Gaming Corporation runs the self-exclusion programme called 'My Play Break'. It allows for self-exclusion of 3 months, 6 months, and 1 to 5 years from all casinos and charitable gaming centres run by OLG. It also allows for the exclusion from the OLG account (that grants access to online gambling and other services) for one day, 1 week, 1 to three months, 6 months, or 1 to 5 years. The registration with My Play Break can be initiated

²³ Registrar's Standards for Internet Gaming – Introductory sections.

²⁴ Registrar's Standards for Internet Gaming – Art.2(14)

²⁵ Registrar's Standards for Internet Gaming – Art.2(14)

²⁶ Registrar Standards, Rule 2.13.2

by phone or on the OLG website. It also permits players to exclude themselves from marketing and other casino promotions.

The ability to amend or launch a new centralised self-exclusion programme are embedded within the standards as those impose a contractual obligation on operators to *“participate in a future coordinated and centralised self-exclusion programme that will allow players to take breaks from all regulated internet gaming websites in Ontario”*²⁷.

No specific gambling provisions exist that would allow exclusion to be initiated by third parties.

4.3. Malta

Malta’s gambling regulations are governed by the Gaming Act 2018. Part V of the Act provides that the regulations that aim to protect vulnerable persons should be made by the minister with input from the Maltese Gaming Authority. More specifically, s.17 specifies that *“the Minister shall, by regulation, establish the overall parameters, criteria and conditions for protecting vulnerable persons in order to minimise potential risk to their health associated with participation in games; provided that the Minister may authorise the Authority to devise all reasonable parameters, criteria, conditions and standards by way of directives or other binding instruments to be issued by the Authority”*²⁸. This means, that in substance, it is the Gaming Authority that drafts and enforces gambling regulatory provisions. Self-exclusion is governed by Directive 2 of 2018 that most recently was updated on the 13th of January 2023. Latest revisions tightened some of the previous rules relating to the operators’ responsibility and the conditions for revocation of self-exclusion. The rules in Malta are quite prescriptive and more detailed than it is the case in the UK or Ontario. They also provide for a distinction to be made between self-exclusion that is entered into due to gambling related problems and self-exclusion due to other reasons.

In line with other regulated markets, all gambling operators must offer a self-exclusion scheme to their players and they must prevent self-excluders from being able to access their gambling facilities or online accounts. They must provide information relating to responsible gambling and available support²⁹. Players must be allowed to request self-exclusion at

²⁷ <https://igamingontario.ca/en/player/responsible-gambling>

²⁸ Maltese Gaming Act 2018, s.17.

²⁹ Directive 2 of 2018 (amended 2023) s.11(1)

anytime and even when they don't specifically ask for it but close their account, operators must check whether such account closure should be deemed as a request for self-exclusion³⁰. Under s.11(2) of the Directive, *"the facility for players to exclude themselves from gaming shall be no more than one click away from the responsible gaming information page"*³¹. If operators have sufficient reasons to believe that the player is excluding themselves due to gambling related harm, they must exclude them not only from the requested website but also from all brands that are operated under the same license. Following the January 2023 amendments this applies irrespective of whether those brands require separate players registration or not³².

Self-exclusion durations can be set for a duration of 6 months, 1 year or indefinitely³³. Previously, indefinite periods of self-exclusion needed to be supported by medical evidence but this is no longer required. It is also now possible to self-exclude from the site without registering on it first³⁴. Entry onto the programme is normally initiated by the players and there is no third party exclusion. However, gamblers can be barred from accessing their venues or their sites by the license holders. Self-exclusion can be terminated by the lapse of the designated time or before, upon a request from a player. Those can ask for total removal of the ban or may only ask for a reduction of the self-exclusion duration. Since January 2023, players must provide explanation as to why they wish to terminate their self-exclusion early and it is for the operators to decide, within 7 days, whether to accept the request or whether to deny it³⁵.

4.4. Gauteng (South Africa)³⁶

The gambling market in South Africa is governed jointly by the national legislation – The National Gambling Act 2004 – and provincial legislation that is devised by each Board independently for their geographical territory. Gauteng province has the highest level of gambling activities in South Africa.

³⁰ Directive 2 of 2018 (amended 2023) s.11(1)

³¹ Directive 2 of 2018 (amended 2023), ref.28 s.11(2)

³² <https://www.legal500.com/developments/thought-leadership/gaming-what-are-the-recent-changes-to-the-player-protection-directive/>, retrieved September 2023.

³³ <https://www.rgf.org.mt/copy-of-home#:~:text=in%20self%2Dexclusion.-,SELF%2DEXCLUSION,year%20and%20an%20indefinite%20period>, retrieved September 2023.

³⁴ Directive 2 of 2018 (amended 2023) s.11 (12(1))

³⁵ Directive 2 of 2018 (amended) Art 11(6)

³⁶ Information provided by representative of E.J. Sendegeya and Associates Advocates, Uganda.

In Gauteng, gambling operators must allow individuals to self-exclude either by giving an appropriate notice to the Gauteng Gambling Board or directly to the security departments of the operators. However, the responsibility to comply with the agreement is generally placed upon the player and the gambling providers are not legally obligated to prevent them from accessing their facilities. There are also no specific penalties that may be imposed on operators for lack of compliance. However, most operators voluntarily implement self-exclusion in collaboration with the provincial gambling boards and aim to prevent players from gambling.

The duration of self-exclusion is 6 months. There is no lifetime self-exclusion and the period is set by the legislation. It does not offer alternative options and there is no revocation of the ban during its duration. Self-exclusion can be initiated by the affected players themselves but it may also be imposed upon a request from third parties. In order for a third party exclusion to be permitted, a court order is required. An application for such an order can be made by a family member or a person who is either partially or wholly dependent on the gambler and from a person for whom the gambler is economically responsible.

Persons entering self-exclusion are referred to counselling and other treatment providers. Revocation of self-exclusion is only permitted once the players proves that they have attended a counselling sessions with one of the National Responsible Gaming Programme Treatment Professionals. Once the exclusion is terminated, the Responsible Gambling Foundation continues to monitor the persons who were under exclusion. They continue to offer them counselling and guidance on how to keep gambling under control.

4.5. Denmark³⁷

The gambling market in Denmark is regulated by the Danish Gambling Authority. The authority is an independent government agency that resides under the Danish Ministry of Taxation.

According to the Executive Order on online betting, s.17(1) and the Executive Order on online casino, s.23(1), the licence holder must make available to all players a service that enables them to request temporary or permanent exclusion from the license holders gambling offer³⁸.

³⁷ Danish Gambling Authority guidance on responsible gambling and response to regulatory survey by the Danish Gambling Authority

³⁸Ibid, (Danish Gambling Authority guidance)

The Danish Executive Order of 29 November 2019 additionally mandate that gambling operators must monitor the players' use of gambling products. The self-exclusion service must work in a way that ensures that the self-exclusion takes immediate effect, ensuring that the player cannot continue gambling after the request of self-exclusion has been made. A service where the player must contact the license holder, for example by email, will not suffice, as this introduces a delay and may allow player to gamble after the self-exclusion request has been made³⁹.

The duration of self-exclusion can be set for 24 hours (called cooling-off period), for 1, 3 or 6 months and for permanent duration. 30 days is the a minimum period for temporary self-exclusion. In all cases the account must be deactivated for the selected period but may be reactivated when the self-exclusion expires. The cooling off period is defined as lasting for 24 hours. As such it is not possible to self-exclude for less than 24 hours. Similarly, it must not be possible to self-exclude for a time period between 24 hours and 30 days, as the temporary exclusion period must be a minimum of 30 days. Offering for example a self-exclusion for a period of 7 days would contravene the Executive Order. However, longer periods of self-exclusion are permitted. Short-term self-exclusion cannot revoked before the expiry of the designated duration.

In case of permanent self-exclusion, the customer's account must be closed and the customer relationship terminated. However, permanent self-exclusion can be revoked provided that a minimum period of 1 year has elapsed. Gambling operators are permitted to devise their own rules that may prevent the players who self-excluded permanently to reopen the account after one year and they may set their own minimum durations provided it is longer than 12 months. Request to revoke permanent self-exclusion must be confirmed within 7 days. If such confirmation is not made within 30 days from the original request, the request to remove self-exclusion registration is nullified.

The Danish Gambling Authority launched and maintains the national self-exclusion register – ROFUS that is available to all Danish citizens. Those who register with ROFUS can exclude themselves from all online betting services and casinos and from all land based casinos.

³⁹ Danish Gambling Authority guidance on responsible gambling and response to regulatory survey by the Danish Gambling Authority

Gambling operators are required to advertise the existence of ROFUS and details of what services it offers on their website. Signing up to ROFUS automatically also signs people onto a service which prevents gambling operators licensed in Denmark from advertising to them by email, phone calls, and physical mail. However, internet advertisements and unaddressed mail is still permitted. Operators are obliged to consult ROFUS before sending any marketing or promotional materials to any individual.

Request to self-exclude must normally come directly from the player and the gambling operators cannot request self-exclusion on players' behalf. However, under s.6 of the Act on Guardianship, a guardian of a person is able to request registration with ROFUS on behalf of the guarded person.

Under s.13 (1,5) of the Executive Order on online betting and under s.15 (1,5) of the Executive Order on online casino, all gambling websites must provide information about the Danish Gambling Authority's helpline (StopSpillet) that offers information about responsible gambling. This must be placed prominently on the license holder's website or user interface, and the information must be accessible from all pages on the websites. Reference to StopSpillet should be done in a manner that makes it easy for the player to find it. This must be done by linking directly to StopSpillet's website and by providing the telephone number of the helpline. The reference to StopSpillet should be given in a manner that makes it obvious that the references are made to the Danish Gambling Authority's helpline about responsible gambling⁴⁰.

⁴⁰ Ibid, (Danish Gambling Authority Guidance)

5. Findings from rapid literature overview

5.1. Status and terminology of self-exclusion.

Internationally, as it has already been seen in the jurisdictional snapshots, the term self-exclusion is not used entirely consistently. However, the fundamental principles and the overall nature of the schemes remain broadly similar. Those have been described by Hing et al⁴¹ as programmes that ‘enable individuals to bar themselves from entering or using gambling facilities of a nominated venue or venues for a specified period of time’⁴². Similarly, online self-exclusion is a programme that allows an individual to ban themselves from accessing websites of named online gambling provider, a group of online operators, or, where a centralised or national self-exclusion registers exist, from all online providers within their jurisdictions. In some countries, entry onto the national registers is triggered even if the players excludes themselves from one website only⁴³ and in others, self-exclusion from one website initiates exclusion from all brands that are offered by the license holders⁴⁴.

Self-exclusion needs to be distinguished from voluntary account closure. This is because there are typically no specific regulatory provisions that regulate the latter but self-exclusion triggers a set of mandatory obligations that are imposed on both parties to this agreement. Self – excluded gamblers, upon registration with a self-exclusion programme, formally undertake not to attempt to use the providers’ facilities (online or in land based venues) during its duration⁴⁵. Gambling operators’ obligations are defined and governed by the regulatory frameworks of where the operator is licensed. As already mentioned in the previous section, those typically include a requirement to enter such players on the relevant records, to remove them within a reasonable period from all targeted and specific advertisements and to actively monitor for potential breaches. Operators are normally required to actively prevent those who are on the register from gambling either by disabling or closing their online accounts for the duration of the ban or by physically removing them

⁴¹ T Hing, B Tolchard, B Nuske, E Holdsworth, L., & M Tiyce ‘A Process Evaluation of a Self-Exclusion Program: A Qualitative Investigation from the Perspective of Excluders and Non-Excluders’ (2014) *International Journal of Mental Health and Addiction*. DOI: 10.1007/s11469-014-9492-5

⁴² Ibid, (Hing et al, 2014)

⁴³ E.g., Italy; see L Kraus, JK Loy, AM Bickl, L Schwarzkopf, RA Volberg, S Rolando, V Kankainen, M Hellman, I Rossow, R Room, T Norman, J Cisneros Ornberg, ‘Self-Exclusion from Gambling: a Toothless Tiger?’ (2022) *Front. Psychiatry* 13.992309

⁴⁴ E.g., Malta, Gambling Director of 2018 (amended 2023).

⁴⁵ Ibid, (Hing, et al 2014)

from land based venues⁴⁶. Additionally, some jurisdictions require gambling operators to provide information on gambling help services and in many countries, any wagers that may have been made in breach of the self-exclusion scheme have to be returned but all potential winnings are also forfeited⁴⁷.

The legal status of a self-exclusion agreement is complex. It represents somewhat peculiar hybrid between private and public law underpinned by social expectations. They are intended to be binding on both parties but not in the traditional contractual sense. While self-exclusion agreements are often referred to as 'contracts', the use of this term is inaccurate and may be misleading. In the absence of gambling regulations, there would be no contract *stricto sensu* that would be recognised and legally enforceable directly between the parties primarily due to the lack of any consideration that would have been provided by the self-excluding individual and also due to the questionable capacity on the part of the gambler to be legally bound by a contract of such nature. Capacity questions arise because the main symptom of gambling disorder is impaired control and as such players may be promising to refrain from activities for which they cannot fully control their urges.

However, such 'contracts' can be enforced indirectly but this is assured by the gambling regulations rather than normal contractual principles. If gambling operators do not offer self-exclusion when it is mandatorily prescribed by law, they do not implement it in line with the relevant requirements, or do not prevent self-excluders from gambling, they may be subjected to regulatory and criminal sanctions for breaches of their social responsibility conditions that are normally attached to the operators' and personal licenses. Those range from warnings, financial penalties, suspension or even revocation of their gambling licenses⁴⁸.

In several jurisdictions operators may also be liable in tort if they are found to have breached their duty of care to a gambler who have self-excluded but was still permitted to play. The liability would cover the total of their losses that were suffered as a result of the breach. This

⁴⁶ N Faregh, C Leth-Steensen, 'Reflection on the Voluntary Self-Exclusion of Gamblers and the Laws-Suits against Ontario Lottery and Gaming Corporation' (2009) 25 Journal of Gambling Studies 131. However, this is not uniform and for example, in South Africa the primary obligation to refrain from gambling vests in the self-excluded player.

⁴⁷ Naturally, in practice, this only happens if the breach of self-exclusion agreement is identified.

⁴⁸ M Carran, 'Consumer Protection in EU Gambling Regulations - Review of the implementation of selected provisions of the European Commission Recommendation 2014/478/EU across EU Member States. Follow Up Study' November 2021

is separate from any regulatory sanctions but there aren't many judicial decisions where the parameters of such liability was fully determined. Faregh and Leth Steenson reported in 2009 that 11 individual lawsuits took place prior to the publication of the article in Ontario, Canada but those were settled out of court under confidential terms⁴⁹. In England, the existence of tortious liability was adjudicated in *Calvert v William Hill Credit*⁵⁰ and in *Ritz Hotel Casino Ltd v Al Geabury*⁵¹ but both resulted in a decision in favour of the gambling operators and thus provide limited guidance as to when the claim would have been successful. In the first case, liability was denied due to lack of causation between the gambling company's failure to prevent the claimant from playing and his financial losses⁵². This was so despite the player asking to be self-excluded on two separate occasions⁵³. In the second case, the liability was denied because the player terminated his self-exclusion before it's expiry and the losses claimed were incurred after this termination. This judgement was upheld even though the gambling regulation for England specifies that self-exclusion cannot be revoked before it's end date.

On the other hand, players who contravenes their agreements and are identified will typically forfeit all of their winnings and may be forcefully removed from land-based premises. Sometimes such removal may be accompanied by a police enforcement officer and staff venue are permitted to use reasonable force, as necessary, in order to do so. In some jurisdictions⁵⁴, they can also be charged with trespassing, may be fined and potentially criminalised⁵⁵. However, there is no equivalent to trespass in an online environment and in practice it seems that fines are imposed on self-excluders rarely. The threat of penalties that may be imposed on self-excluders who breach their agreements is controversial. Under the Reno model of responsible gambling, the decision whether to gamble or not is essentially the individual's free choice that should be respected provided it is fully informed⁵⁶. On this basis

⁴⁹ N Faregh, C Leth-Steenson, 'Reflection on the Voluntary Self-Exclusion of Gamblers and the Law-Suits against Ontario Lottery and Gaming Corporation' (2009) 25 *Journal of Gambling Studies* 131

⁵⁰ *Calvert v William Hill Credit* [2008] EWHC 454, [2008] LLR 583

⁵¹ *The Ritz Hotel Casino Ltd v Al Geabury* [2015] EWHC 2297

⁵² *Ibid*, (*Calvert*)

⁵³ *Ibid*, (*Calvert*)

⁵⁴ For example, Canada, US, New Zealand.

⁵⁵ *Ibid*, (Faregh 2009) See also P Townshend, 'Self-Exclusion in a Public Health Environment: An Effective Treatment Option in New Zealand' (2007) 5 *International Journal of Mental Health Addiction* 390

⁵⁶ A Blaszczynski, R Ladoucer, J Howard, 'The Reno Model as a Framework for Responsible Gambling' (2004) 20(3) *Journal of Gambling Studies* 301

if a player chooses not to engage in gambling but breaks their agreement, they should be then accountable for it. The risk of fines may also work as a significant positive incentive that may encourage players to adhere to the agreement and to refrain from gambling for the stipulated duration thus further reinforcing the benefits of the scheme. However, this approach does not fully address important concerns that many self-excluders enter the scheme due to having gambling related problems and they find it difficult to stop gambling on their own accord. As such this may lead them to being penalised for conduct over which they do not have effective control⁵⁷. Moreover, studies from jurisdictions where such penalties are permitted indicate that for some players this acts as a deterrent to even enter into self-exclusion scheme as they wouldn't wish to risk potentially incurring further financial losses that in turn may exacerbate their problems⁵⁸.

The term self-exclusion is widely used and broadly relates to the same types of schemes. The main distinction that needs to be made relates to their durations. In some countries, there is a distinction that is made between short terms and longer terms with the former being referred to as time outs / cooling off periods / play breaks etc and the latter being the 'proper' self-exclusion. However, the responsibility of the gambling operators and players tend to the same under both and accordingly, for the purpose of the project the term self-exclusion is used in the wider sense and incorporates all formats regardless of its duration.

5.2. Who the self-exclusion schemes are for?

Land-based self-exclusion schemes have been offered in Europe for almost a century. Austria opened such programme in 1934 when its first casino opened its doors to the public and it has been reported that Bavaria, Germany has already had a fully established programme not later than by 1961⁵⁹. In Canada, first self-exclusion was reportedly offered in Manitoba in 1989⁶⁰. While originally industry driven⁶¹, since then, the majority of jurisdictions started to

⁵⁷ N Faregh, C Leth-Steenson, 'Reflection on the Voluntary Self-Exclusion of Gamblers and the Law-Suits against Ontario Lottery and Gaming Corporation' (2009) 25 Journal of Gambling Studies 131

⁵⁸ N Hing, B Tolchard, E Nuske, L Holdworth ., & M Tyice, 'A Process Evaluation of a Self-Exclusion Program: A Qualitative Investigation from the perspective of Excluders and Non-Excluders' (2014) International Journal of Mental Health and Addiction DOI: 10.1007/s11469-014-9482-5

⁵⁹ T Hayer, G Meyer, 'Self-Exclusion as a Harm Minimization Strategy: Evidence for the Casino Sector from Selected European Countries' (2011) 27 Journal of Gambling Studies 685

⁶⁰ Ibid, (Hayer 2011)

⁶¹ S Gainsbury, 'Review of Self-Exclusion from Gambling Venues as an Intervention for Problem Gambling' (2014) 30 Journal of Gambling Studies 229

devise legal or regulatory provisions that impose legal obligations on the industry to offer it. Even in jurisdictions that this is not yet legally required, operators often offer it on a voluntary basis. While compliance with those requirements is still not entirely uniform⁶² and cryptocurrency-based online gambling has created new and additional risks⁶³, it now became one of the most important tool that corresponds to public health models of collaboration between gambling industry, regulators / policy makers, gamblers and other stakeholders⁶⁴ and it is expected to be offered as part of the overall package of social responsibility measures⁶⁵. As such, it is natural to assume that self-exclusion programmes are utilised specifically by those who have already developed a gambling disorder (previously referred to as pathological gambling) and need abstinence to help them with their recovery or by those who are at risk of suffering gambling related harm and wish to refrain from gambling on a preventative basis. This may be due to previous gambling problems⁶⁶ but not necessarily.

Empirical evidence from land-based venues offers strong support for the above assumption in the sense that entry to the self-exclusion programmes was found to be almost invariably strongly associated with at risk and problem gamblers regardless of whether the individuals themselves accepted that they may be at risk or not and irrespective of whether those individuals have or have not received a formal diagnosis⁶⁷. However, even before the proliferation of online gambling, self-exclusion was not only utilised by problem gamblers and the situation is even more nuanced in the online environment. While it is uncontroversial that self-exclusion schemes, whether online or in land based venues are or should be targeting those who need help with controlling their gambling, evidence shows that other individuals

⁶² See, e.g, C Cooney, D Columb, J Costa, MD Griffiths, C O’Gara, ‘An Analysis of Consumer Protection for Gamblers Across Different Online Gambling Operators in Ireland: A Descriptive Study’ (2021) 19 International Journal of Mental Health and Addiction 19

⁶³ M Andrade, S Sharman, LY Xiao, PWS Newall, ‘Safer Gambling and Consumer Protection Failings Among 40 Frequently Visited Cryptocurrency-Based Online Gambling Operators’ (2022) Psychology of Addictive Behaviors DOI: 10.1037adb0000885

⁶⁴ HJ Shaffer, A Blaszczyński, R Ladouceur, ‘Considering the Public Health and Reno Models: Strategic and Tactical Approaches for Dealing with Gambling – Related Harms’ (2020) 18 International Journal of Mental Health and Addiction 806

⁶⁵ R Wood, G Shorter, MD Griffiths, ‘Rating the Suitability of Responsible Gambling Features for Specific Game Types: A resource for Optimizing Responsible Gambling Strategy’ (2014) 12 Int J Ment Health Addiction 94

⁶⁶ A Hakanson, C Widinghoff, ‘Gambling Despite Nationwide Self-Exclusion – A Survey in Online Gamblers in Sweden’ (2020) 11 Front. Psychiatry 599967; DOI: 10.3389/fpsy.2020.599967

⁶⁷ Ibid, (Hakanson 2020)

also take advantage of those. For example, study carried out by Dragicevic et al⁶⁸ showed that 25% of individuals who excluded from online gambling providers have done so within the first 15 days of registration and of those 25% excluded themselves on the first day. Hausler⁶⁹ analysed financial transactions of 2696 self-excluded gamblers and reported that 23.3% of them had zero balances on their account up to a year prior to registering with the scheme. This was argued by Catania and Griffiths to indicate that online gamblers may exclude themselves not only due to gambling harm but also due to other commercial reasons such as *“gamblers experimenting and evaluating the online gambling operator, or [due to] the sign up bonuses not being up to gamblers’ expectations”*⁷⁰. Hakansson and Widinghoff further emphasised that entry to self-exclusion may be made by family members or friends of a problem gambler who wants to commit to a non-gambling lifestyle despite lack of their own gambling problems as an act of support to the affected individual⁷¹. The main advantage of self-exclusion over a simple account closure is that the registration with the programme automatically triggers the individual protections from all direct advertisement and as such it may be used as spam prevention or to express dissatisfaction with the venue or online provider⁷². More concerning are reports of deliberate misuse of self-exclusion by gamblers for financial gains. For example, in Canada, Yahoo Finance reported in June 2022 that some gamblers self-excluded from some online operators to avoid losing bets while at the same time having a valid sport bet on an opposing team with another operator. This potentially allowed gamblers to receive a refund for the losing bet and a winning wager from another provider from the same sporting event⁷³. This situation is no longer possible due to the

⁶⁸ S Dragicevic, C Percy, A Kudic, J Parke, ‘A Descriptive Analysis of Demographic and Behavioural Data from Internet Gamblers and those who Self-Exclude from Online Gambling Platforms’, (2015) *Journal of Gambling Studies* 105

⁶⁹ J Hausler, ‘Follow the Money: Using Payment Behaviour as Predictor for Future Self-Exclusion’ (2016) *16 International Gambling Studies* 246

⁷⁰ M Catania, MD Griffiths, ‘Behavioural Tracking, Responsible Gambling Tools, and Online Voluntary Self-Exclusion: Implications for the Gambling Industry’ (2019) *September Casino and Gaming International* 41.; M Catania, MD Griffiths, ‘Understanding Online Voluntary Self-Exclusion in Gambling: An Empirical Study Using Account-Based Behavioural Tracking Data’ (2021) *18 Int J Environ Res Public Health* 2000.

⁷¹ A Hakansson, C Widinghoff, ‘Gambling Despite Nationwide Self-Exclusion – A Survey in Online Gamblers in Sweden’ (2020) *11 Front. Psychiatry* 599967; DOI: 10.3389/fpsy.2020.599967

⁷² As it has been successfully argued in England in the case of *The Ritz Hotel Casino Ltd v Al Geabury* [2015] EWHC 2297

⁷³ <https://www.covers.com/industry/ontario-self-exclusion-loophole-close-online-sports-betting-march-2023>, last retrieved September 2023.

amendment that were introduced by the Alcohol and Gaming Commission of Ontario (AGCO) in January 2023 but it highlights potential ways in which such schemes may be misused.

The number of studies where the distinction between commercial and addiction related motivations of players to self-exclude was specifically examined is very limited and the results are inconclusive. Luquiens et al⁷⁴ carried out one of the largest projects in this area as they directly examined the motives of 5154 self-exclusion registration entries by online poker players that were provided to the operators over a period of 7 years. The analysis was carried out in conjunction with evaluation of how many gamblers return to gambling after their self-exclusion ends. Of those entries, 3319 registration related to gambling related problems but 1835 indicated a commercial motive. Those included 'dislike of the providers' software', 'gambling with alternative operators', 'disappointment with customer service support', 'experience of security issues', and other reasons that were added individually on the forms by the players. However, the authors themselves warned strongly against any reliance on their findings. They argued that the "*self-reported motives ... seemed inconsistent, unreliable and irrelevant*" and could be misleading as all self-excluders in their studies were "*very heavy gamblers*" in both problem and commercial motive groups⁷⁵.

The designs of many other studies made it impossible to identify non-addiction motives as they often presupposed gambling related harm as an underlying reason and gave only very limited opportunities to players to offer alternative justifications. For example, Hayer and Meyers⁷⁶ examined responses to surveys from 152 barred players from Germany, Austria and Switzerland that included questions on reasons for entry into the scheme. However, only one of the 12 possible choices provided (with multiple answers being permitted) was not connected to gambling related harm – "*annoyance with casino staff*". All remaining options referred to potential or actual adverse consequences. Those were "*(1) lost too much money in the casino; (2) as preventative measure; (3) loss of control; (4) financial problems due to casino gambling; (5) spent too much time in the casino; (6) placing bets that bore no relation to income level / wealth; (7) family or relationship problems due to casino gambling; (8) in*

⁷⁴ A Luquiens, D Vendryes, H-J Aubin, A Benyamina, S Gaiffas, E Bacry, 'Description and Assessment of Trustability of Motives for Self-Exclusion Reported by Online Poker Gamblers in a Cohort Using Account-Based Gambling Data' (2018) *BMJ Open* 8 DOI:10.1136/bmjopen-2018-022541

⁷⁵ *Ibid*, (Luquiens 2018)

⁷⁶ T Hayer, G Meyer, 'Self-Exclusion as Harm Minimization Strategy: Evidence for the Casino Sector from Selected European Countries' (2010) 27 *Journal of Gambling Studies* 685

debt because of casino gambling; (9) at the request of family and friends; (10) problems at work due to casino gambling; and (11) part of my gambling counselling / treatment program"⁷⁷. Similar study was carried out by Lischer and Schwarz⁷⁸ in the context of Swiss self-exclusion as their forms include similar questions except for the last one that is replaced with catch all provisions of 'other reasons'. In this study, the analysis of 8170 self-exclusion forms from a period between 2006 and 2015 revealed 3812 gamblers who indicated that they were self-excluding as "*they lost too much money at the casino*", 2851 because they felt that they "*needed the exclusion as a preventative measure*", 1733 because they "*spent too much time in the casino*" but 1242 selected the 'others' box. However, the study did not list what those other reasons were and as such does offer additional insights⁷⁹. On another continent, Hing et al examined motivations for self-exclusion among Australian gamblers but also only identified reasons that related to financial losses, difficulties with health, legal problems, issues at work or in personal relationships⁸⁰.

The contradictory nature of the aforementioned arguments makes it impossible to definitely ascertain the motivations of the gamblers to enter self-exclusion and any attempt to divide them into those who ban themselves due to gambling problems and those who self-excluded for other reasons is likely to prove very inaccurate. However, efficacy of the schemes may be undermined if they are misused and this raises the question as to whether such misuse could and should be identified and prevented.

An unusual and likely controversial perspective was offered by Sytze Kingma⁸¹ who indirectly argued that the actual purpose of self-exclusion is not essentially to help gamblers but to protect the gambling industry from adverse regulations, prohibitions, or from financial claims. Also to provide meaningful argument for the governments so they can demonstrate to the public that they are taking social responsibility matters seriously and only allow gambling

⁷⁷ T Hayer, G Meyer, 'Self-Exclusion as Harm Minimization Strategy: Evidence for the Casino Sector from Selected European Countries' (2010) 27 Journal of Gambling Studies 685

⁷⁸ S Lischer, J Schwarz, 'Self-Exclusion and Imposed Exclusion as Strategies for Reducing Harm: Data from Three Swiss Casinos' (2018) Issue 000 Journal of Gambling Issues; <http://igi.camh.net/doi/pdf/xxxx>

⁷⁹ Ibid, (Lischer)

⁸⁰ N Hing, B Tolchard, E Nuske, L Holdworth ., & M Tyce, 'A Process Evaluation of a Self-Exclusion Program: A Qualitative Investigation from the perspective of Excluders and Non-Excluders' (2014) International Journal of Mental Health and Addiction DOI: 10.1007/s11469-014-9482-5

⁸¹ SF Kingma, 'Paradoxes of Risk Management: Social Responsibility and Self-Exclusion in Dutch Casinos' (2015) 20(1) Culture and Organization DOI:1-/1080/14759551.2013.795152

with strict measures that minimise gambling related harm at individual and population levels. While this argument is worth noting, due to the different nature of this proposition, the consideration of this line of arguments is outside the scope of the project.

5.3. Effectiveness of self-exclusion.

There is an ongoing disagreement between the industry, researchers, governments and mental health professionals as to the extent of the effectiveness of self-exclusion or indeed any other safer gambling tools. In an earlier article, Blaszczynski et al⁸² argued, when commenting on Australasian jurisdictions that *“there is a significant absence of credible research data on the effectiveness of specific interventions”* and that there is *“virtually no evidence to confirm their effectiveness”*⁸³. This statement, however, is misleading as there are many studies that evaluate who utilises the self-exclusion schemes, their characteristics and the impact that the enrolment on the programmes has on them. Equally there are studies that highlight difficulties experienced by the gamblers and the industry that are associated with social responsibility measures and many suggestions as to how those should be resolved have been made.

The real difficulties in this area should be attributed to a different problem. It is submitted that the real issue is lack of clear, precise and consistent articulation of the actual purpose of self-exclusion and how their success or otherwise should be measured. This is because, ultimately, it must be recognised that outcomes of any evaluation will differ depending on whether the schemes are considered effective only if they helped all gamblers with gambling problems to entirely eliminate gambling related harm or recover from a gambling disorder or whether it suffices if it only helps some of them. Equally, evaluators would reach different conclusions if the aim is to ensure that self-excluders entirely abstain from gambling during the duration of the scheme and continue to abstain after its completion or whether it will be equally deemed successful if they just reduce the intensity of their gambling or have an effective break. Furthermore, results will also differ if the primary responsibility for the programmes’ effectiveness is allocated to the industry or to the individual affected by gambling harm. The differences in focus allocated to each of those parameters by various

⁸² A Blaszczynski, R Ladouceur, L Nower, ‘Self-Exclusion: A Proposed Gateway to Treatment Model’ (2007) 7(1) International Gambling Studies 59

⁸³ Ibid, (Blaszczynski, 2007)

stakeholder materially affect how the success of the measure is perceived and it is inherently problematic to have a tool that is assessed with reference to different standards and different expectations, especially when those differences are not openly articulated and there is an underlying but incorrect assumption that everyone understands the tools' purposes in a similar manner.

However, it still remains true that many empirical studies suffer from limitations that undermine the possibility to rely on their findings and open them to various challenges. Those were comprehensively listed by Livingstone et al⁸⁴ as follows: *“lack of baseline data; the study sample not being representative of SE populations and / or not generalisable to other jurisdictions because of specific characteristics (such as jurisdictional requirement for identification of patrons prior to admission to a gambling venue [or to create a gambling account that is needed to access online services] or heavy penalties applying to venue management who admit excluded patrons; lack of validated measurement instruments; absence of control or comparison groups; and possible unreliability associated with self-report”*⁸⁵. Other identified limitations include small number of study participants, use of surveys with questions that were not robustly tested for validity and consistency of interpretation of questions by those completing the surveys⁸⁶ and the near impossibility of proving causation (as opposed to correlation) due to a multitude of factors that affect individual behaviour and the overall impact of any initiative⁸⁷.

Many of those limitations are unavoidable and inherent in evaluations of any initiatives irrespective of which industry or what initiatives are being examined and they must not be taken per se to invalidate the results of the studies. Researchers also aim to minimise those elements that are within their control, even if only partially, by including control groups, by ensuring that participants are more representative of the wider populations of gamblers and by using only verified measures. Indeed, there is sufficient level of robust data that conclusively demonstrate that self-exclusion tools are critical and useful and should be

⁸⁴ Ch Livingstone, A Rintoul, L Francis, 'What is the Evidence for Harm Minimisation Measures in Gambling Venues' (2014) Issue 2 Evidence Base, journal.anzsog.edu.au

⁸⁵ Ibid, (Livingstone, 2014)

⁸⁶ Ibid, (Blaszczynski, 2007)

⁸⁷ N Hopfgartner et al, 'The Efficacy of Voluntary Self-Exclusion in Reducing Gambling among a Real-World Sample of British Online Casino Players' (2023) Journal of Gambling Studies DOI:10.1007/s10899-023-10198-y

offered as part of the overall secondary interventions to minimise gambling related harm. This is so even though what is understood to be ‘useful’ in this context may vary from person to person⁸⁸ and even though the positive outcomes accrued may only apply for a short term. Identified positive consequence of self-exclusion include the reduction of the number of players with a gambling disorder (previously pathological gambling) at a population level⁸⁹, reduction of problem gambling scores among some of the participants during and after the programme observable through increased work performance, enhanced wellbeing and better financial security⁹⁰, support that it offers to players to help them quit all or some specified forms of gambling⁹¹ and a reduction in individual characteristics associated with problem gambling such as illusion of control or perceived inability to stop⁹². For example, Turner et al’s study of 235 self-excluded players in Canada showed a significant reduction in PGSI scores not only during the duration of the programme but also at a 12 month interval afterwards⁹³. A similar outcome was reported by McCormick et al who also showed a significant reduction in PGSI scores among self-excluded players in the British Columbia region with the main effect being seen shortly (between 1 and 6 months from enrolment) after the individual entered the scheme⁹⁴. Hayer and Meyer also highlighted that longitudinal study in European jurisdictions also showed that *“various gambling-related parameters indicate a clear improvement in psychosocial functioning subsequent to self-exclusion”*⁹⁵.

⁸⁸ V Marionneau, J Jarvinene-Tassopoulos, ‘Consumer Protection Licenced Online Gambling Markets in France: the Role of Responsible Gambling Tools’ (2017) 25(6) *Addiction Research and Theory* 436-443

⁸⁹ T Hayer and G Meyer, ‘Self-exclusion as a harm minimization strategy: Evidence from the casino: Evidence from the Casino Sector from selected European countries’ (2011) 27 *Journal of Gambling Studies* 685-700

⁹⁰ L Kraus, A Bickl, L Sedlacek, L Schwarzkopf, J Cisneros Ornberg, JK Loy, ‘We are not the Ones to Blame: Gamblers’ and Providers’ Appraisal of Self-Exclusion in Germany’, (2023) 23 *BMC Public Health* 3222

⁹¹ S Gainsbury, ‘Review of Self-Exclusion from Gambling Venues as an Intervention for Problem Gambling’ (2014) 30 *Journal of Gambling Studies* 229-251

⁹² J Caillon et al, ‘Effectiveness of At-Risk Gamblers’ Temporary Self-Exclusion form Internet Gambling Sites’, (2019) 35 *Journal of Gambling Studies* 601-615

⁹³ N Turner, J Shi, J Robinson, S McAvoy, S Sanchez, ‘Efficacy of a Voluntary Self-Exclusion Reinstatement Tutorial for Problem Gamblers’ (2021) 37 *Journal of Gambling Studies* 1245

⁹⁴ AV McCormick, IM Cohen, G Davies, ‘Differential Effects of Formal and Informal Gambling on Symptoms of Problem Gambling During Voluntary Self-Exclusion’, (2018) 34 *J Gamb Stud* 1013

⁹⁵ T Hayer, G Meyer, ‘Self-Exclusion as Harm Minimization Strategy: Evidence for the Casino Sector from Selected European Countries’ (2010) 27 *Journal of Gambling Studies* 685; R Ladoucer, C Sylvain, P Gosselin, ‘Self-Exclusion Program: A Longitudinal Evaluation Study’ (2007) 23 *Journal of Gambling Studies* 85

It is perhaps important to emphasise that no identified study has pointed to any adverse or harmful consequences related to mental health⁹⁶ due to self-exclusion. In some cases, return to gambling following self-exclusion resulted in a significant short term increase in the intensity of gambling but those ‘typically stabilised’ over time⁹⁷. Even though some gamblers suffer from relapses of their gambling disorders and others return to unsafe gambling⁹⁸, this is not the result of the programme but due to the underlying disorder. Additionally, the critical word in all analysis relate to the word ‘proportion’ as it indicates that for others the benefit of the scheme extended for a longer term.

5.4. Barriers to entry.

Many individual parameters may hinder or enhance the overall effectiveness of the scheme. Those that are intrinsic can be altered by regulatory interventions or voluntary adoption and / or by more effective implementation and enforcement of the existing provisions. Extrinsic factors require wider initiatives within the overall population, the industry and within the support and treatment provisions.

The overall participation in self-exclusion programmes among problem gamblers is estimated to be low and only increasing slowly⁹⁹. Earlier estimates indicated that the proportion of problem gamblers who exclude varied between 0.6% and 17% for land based venue and between 5.4% and 11% online¹⁰⁰. This is objectively low as this particular safer gambling tool is primarily directed at those who already suffer from harm and should theoretically be of benefit to all who engage with problematic gambling behaviour. Many qualitative studies examined perceived and actual reasons that may deter problem gamblers from participation. Most focused on land based venues, and while their findings are not fully transferable to an online environment, several insights remain relevant for both. Some of the earlier issues identified by players have been addressed by regulatory interventions and the creation of

⁹⁶ It is important to emphasise mental health here as there are studies that reported that gamblers may have experience annoyance at being unable to play or they felt that their freedoms were restricted.

⁹⁷ Ibid, (Gainsbury, 2014)

⁹⁸ N Turner, J Shi, J Robinson, S McAvoy, S Sanchez, ‘Efficacy of a Voluntary Self-Exclusion Reinstatement Tutorial for Problem Gamblers’ (2021) 37 Journal of Gambling Studies 1245

⁹⁹ F Motka, B Grune, P Slecicka, B Braun, J Cisneors Ornberg, L Kraus, ‘Who Uses Self-Exclusion to Regulate Problem Gambling? A Systematic Literature Review’ (2018) Journal of Behavioral Addictions; DOI: 10.155/2006.7.2018.96

¹⁰⁰ Ibid, (Motka, 2018)

national self-exclusion registers and some more organically due to the inherent characteristics of the Internet but many still remained unresolved.

One of the commonly cited reasons for low participation is the lack of publicity and low awareness of the existence of the programmes. There appears to be a significant discrepancy between what the industry perceives to be a sufficient promotion and the view of the players who quite consistently complain about not being aware of the possibility to self-exclude and the absence of appropriate advertisements, promotions or other campaigns that would publicise their existence more effectively. In light of the regulatory provisions that mandatorily require operators to provide relevant information to players in an ‘easy and accessible’ manner, it is rather surprising to see that a study published by Devault – Tousignant et al¹⁰¹ in the current year of 2023 still reported that many participants *“complained about the absence of advertisement for self-exclusion programmes, as none of them had heard of self-exclusion before they started acknowledging their gambling problems”*¹⁰². A quick look at a sample of the gambling operators that offer their services in England by the writer of this paper confirmed that, despite claims to the contrary, the information about self-exclusion is not in fact prominent and it required to be specifically searched for. Studies have for some time now quite consistently reported problems with awareness and with lack of regular and visible advertising of the existence of schemes from early on¹⁰³ but the recentness of the Devault – Tousignant et al’s study indicates that improvement in this area did not seem to have the desired effect. One important aspect, often overlooked, is the diversity of linguistic and other abilities of players¹⁰⁴ that may affect whether and how information is received. This indicates that there is a need to devise a more innovative method of publicising the schemes that would attract the attention of players and non-players and that this should be done through diversified formats, mediums and choice of languages.

¹⁰¹ C Devault – Tousignant, N Lavoie, M Côté, S Audette-Chapdelaine S, AM Auger, A Håkansson, M Brodeur, ‘Qualitative Experience of Self-Exclusion Programs: A Scoping Review’ (2023)20 Int J Environ Res Public Health 3987; DOI.ORG/10.3390/ijerph20053987

¹⁰² Ibid, (Devault – Tousignant, 2023)

¹⁰³ C Devault – Tousignant, N Lavoie, M Côté, S Audette-Chapdelaine S, AM Auger, A Håkansson, M Brodeur, ‘Qualitative Experience of Self-Exclusion Programs: A Scoping Review’ (2023)20 Int J Environ Res Public Health 3987; DOI.ORG/10.3390/ijerph20053987

¹⁰⁴ Ibid, (Devault – Tousignant, 2023)

Other barriers to entry were identified by Hing et al¹⁰⁵ who interviewed a selection of gamblers in Queensland. Individuals did not wish to self-exclude because of their ‘denial of having problems’¹⁰⁶, ‘insufficient awareness of the existence of the scheme’, ‘lack of confidence in their effectiveness’ and ‘desire to address the problems on their own’¹⁰⁷. Other reasons identified in other studies included unwillingness, due to shame or embarrassment, to talk to staff about the need to self-exclude¹⁰⁸, concerns relating to confidentiality and privacy and the time consuming nature of having to self-exclude from each venue individually¹⁰⁹. The online nature of self-exclusion resolves some of those issues as online gamblers in many jurisdictions no longer need to speak to any member of staff to self-exclude but can initiate the ban at a click of a button thus also minimising the concerns about privacy and confidentiality.

The increased centralisation of exclusion formats that allows players to ban themselves from multiple venues also reduces the time required to do so. These are not yet universally available but are continuously increasing and one of the most recent additions is Australia that launched a free national register BetStop on the 21st of August 2023. However, even the national self-exclusion registers very rarely allow players to ban themselves from ALL gambling facilities in one registration thus still not removing all potential duplications of efforts. Request for such option being available have most recently been repeated by participants of the study carried out by Kraus et al¹¹⁰ published in the current year. They expressed a desire to be able to self-exclude from all gambling facilities in one simple registration and cited that their main criticism of the scheme was the easiness in which they

¹⁰⁵ T Hing, B Tolchard, B Nuske, E Holdsworth, L., & M Tiyce ‘A Process Evaluation of a Self-Exclusion Program: A Qualitative Investigation from the Perspective of Excluders and Non-Excluders’ (2014) *International Journal of Mental Health and Addiction*. DOI: 10.1007/s11469-014-9492-5

¹⁰⁶ J Abbott, K Francis, N Dowling, D Coull, ‘Motivators and Barriers to Joining A self-Exclusion Program’ Paper presented at the National Association for Gambling Studies (NAGS) 21st Annual Conference, Melbourne – cited in A Thomas, R Carson, J Deblaquiere, A Armstrong, ‘Review of Electronic Gaming Machine Pre-Commitment Features: Self-Exclusion’ (2016) Australia Government, Australian Institute of Family Studies, Australian Gambling Research Centre

¹⁰⁷ Ibid, (Abbott, 2016)

¹⁰⁸ NR Nowatzki, RJ Williams, ‘Casino Self-Exclusion Programmes: a Review of the Issues’ (2002) 2(1) *International Gambling Studies* 3

¹⁰⁹ J Parke, J Rigbye ‘Self-Exclusion as a Gambling Harm Minimisation Measure in Great Britain: An Overview of the Academic Evidence and Perspective from Industry and Treatment Professionals’ Responsible Gambling Trust, 2014

¹¹⁰ L Kraus, A Bickl, L Sedlacek, L Schwarzkopf, J Cisneros Ornberg, JK Loy, ‘We are not the Ones to Blame: Gamblers’ and Providers’ Appraisal of Self-Exclusion in Germany’, (2023) 23 *BMC Public Health* 3222

could engage with gambling elsewhere despite the self-exclusion, whether it is ‘at a different venue, on a different website or across jurisdictions’¹¹¹. Furthermore, while internet facilitated self-exclusion without interaction with another person and thus removed a large element of concerns regarding privacy and confidentiality, it created another concern relating to data security, potential leaks of personal information, and the possibility of such information being stolen by hackers. Those risks have not as yet been fully explored in the literature but are likely to become of increasing importance.

Furthermore, the removal of human interaction should not be taken to be universally accepted as a positive development as it limits the operators’ ability to refer gamblers to counselling and other treatment support and the mere provision of information on the website may not be sufficient¹¹². Indeed, the question of whether there should be a requirement to attend an interview, take a self – test or speak to mental health professional upon initiation of self-exclusion has attracted contradictory views from the players as well as the operators. On one side, there is strong evidence that highlights reluctance among gamblers who suffer from harm to seek help from healthcare professionals¹¹³ but on the other the individual assistance model strongly advocates that such help is highly beneficial not only as part of a formal treatment but especially at the initiation stage¹¹⁴. Entry into the self-exclusion can be seen as a necessary last resort but there is a disconnect among gamblers between recognition that they need professional help and actually seeking it. This could be resolved if self-exclusion automatically triggered a referral to support services. Equally, a major discrepancy has also been identified between ‘what the gamblers think and what they actually do’ when choosing to ban themselves as shown by the study that reported high number of self-excluders who indicated at the time of entry that they would like a treatment meeting but a small number from the same sample that actually attended those meetings when offered¹¹⁵. Similarly, an intervention developed in Massachusetts in 2016 offered self-excluded gamblers the

¹¹¹ Ibid, (Kraus et al, 2023)

¹¹² Ibid, (Parke, 2014)

¹¹³ H Suurvali, J Cordingley, DC Hodkins, J Cunningham, ‘Barriers to Seeking Help for Gambling Problems: a Review of the Literature’ (2009) 25 *Journal of Gambling Studies* 407

¹¹⁴ T Hing, B Tolchard, B Nuske, E Holdsworth, L., & M Tiyce ‘A Process Evaluation of a Self-Exclusion Program: A Qualitative Investigation from the Perspective of Excluders and Non-Excluders’ (2014) *International Journal of Mental Health and Addiction*. DOI: 10.1007/s11469-014-9492-5

¹¹⁵ R Williams, B West, R Simpson, ‘Prevention of Problem Gambling: A Comprehensive Review of the Evidence and Identified Best Practice’, Ontario Problem Gambling Research Centre and the Ontario Ministry of Health and Long Term Care (2012)

opportunity to be contacted by a peer in a long term recovery who could then enrol them onto a telephone recovery programme that aimed to support them through the VSE process. Between July 2016 and May 2023, 420 people asked to be contacted in this manner and of those 20% enrolled on the Telephone Recovery Support. Those who did so found the process helpful and would recommend it to others but this does not detract from the small proportion of self-excluders who opted for such help in the first place¹¹⁶. In the alternative, gamblers who feel the need to ban themselves are often in a particularly fragile state that may be additionally fuelled by anxiety and self-guilt¹¹⁷. While this does not always apply and many self-exclusions are entered into following careful consideration, some are a result of an impulse and a spontaneous decision 'at the height of gamblers' difficulties' and any additional elements or delay in the registration process may undermine their willpower to complete it¹¹⁸. There is also the issue of the feasibility of such support being freely available in light of the general shortage of healthcare professionals in this area. Compulsory referral also encroach on individuals' freedoms to decide how they wish to address their own health and as such would not fit easily in models that emphasise personal agency and choice.

Pickering and others collected suggestions from 25 stakeholders who either had a 'lived-in' experience of self-exclusion or worked in relevant employment such as gambling staff or counsellors of what an ideal and encouraging self-exclusion website would look like¹¹⁹. While their study evaluated ideas for online website for land based exclusion, it is likely that many of the comments would be equally applicable to online schemes. The results indicated that the 'ideal' self-exclusion website would be easy to use regardless of the medium in which it is accessed, one that caters to people who speak variety of languages, and is encouraging. Participants highlighted that self-exclusion is often a time where gamblers experience high levels of anxiety and as such '*warm colours, personal testimonies of successful self-excluders*

¹¹⁶ O Dwarika, 'Integrating Telephone Recovery into Voluntary Self-Exclusion', Poster presented at the 18th International Conference on Gambling and Risk Taking, 2023, Las Vegas

¹¹⁷ T Hayer, G Meyer, 'Self-Exclusion as Harm Minimization Strategy: Evidence for the Casino Sector from Selected European Countries' (2010) 27 Journal of Gambling Studies 685

¹¹⁸ Ibid, (Hayer, 2010)

¹¹⁹ D Pickering, A Serafimovska, SJ Cho, A Blaszczyński, SM Gainsbury, 'Online Self-Exclusion from Multiple Gambling Venues: Stakeholder Co-Design of a Usable and Acceptable Self-Directed Website' (2022) 27 Internet Interventions 100491

and other positive imagery such as happy people' would work as a positive reinforcement that gamblers are making the right choice to enter the scheme¹²⁰.

Fines of other criminal punishment that may be imposed on self-excluders who breach their agreement in some jurisdictions have also been identified as a potential barrier as gamblers may not want to take additional risk of further financial losses. This has already been discussed in section 3.1.

Finally, an important social aspect that may undermine players willingness to self-exclude is the stigmatisation of gambling problems within the society and more specifically stigmatisation of the need to self-exclude. As eloquently pointed out by Thomas et al¹²¹ *"there are "many cultural barriers for some people. Admitting to a gambling problem can lead to a "loss of face" in some cultures, and Western conceptualisations of counselling or seeking help from strangers can be seen as inappropriate, with problems such as gambling being primarily managed by the individual and their family"*¹²². This should be addressed by drafting protocols that would consider cultural sensitivities and would present the information about self-exclusion in a non-stigmatising manner. This means that even the name of self-exclusion may need to be challenged as it has been argued that the current terminology is per se inherently stigmatising and should be replaced with a more neutral word¹²³.

5.5. Breaches of self-exclusion agreements

Reports of gambling despite self-exclusion remain relatively common and those have been argued to represent a norm rather than an exception. While it is the responsibility of operators to prevent self-excluders from gambling, the difficulties with enforcement are very different in land based venues and online. For land based operators, a major differentiating factor between North American / Australian / New Zealand jurisdiction and some European countries is the open entry policy to a casino in the former and closed entry that requires

¹²⁰ D Pickering, A Serafimovska, SJ Cho, A Blaszczyński, SM Gainsbury, 'Online Self-Exclusion from Multiple Gambling Venues: Stakeholder Co-Design of a Usable and Acceptable Self-Directed Website' (2022) 27 *Internet Interventions* 100491

¹²¹ A Thomas, R Carson, J Deblaquiere, A Armstrong, 'Review of Electronic Gaming Machine Pre-Commitment Features: Self-Exclusion' (2016) Australia Government, Australian Institute of Family Studies, Australian Gambling Research Centre

¹²² Ibid, (Thomas, 2016)

¹²³ J Robinson, 'What We Call It Matters' Paper presented at the 18th International Conference on Gambling and Risk Taking, 2023, Las Vegas

identification at the door in the latter. The open entry in Canada, US, and Australia means that enforcing exclusion relies on manual recognition of self-excluded patron by gambling venues staff which is inherently less likely to be effective than automatic reference to computerised database upon presentation of identity documents unless those venues adopt facial recognition technology.

The breaches of self-exclusion online should be materially less common. Unless the player commits fraud and attempts to register again on the self-excluded website under incorrect credentials, there should be no reasons why the operators would fail to prevent the gambler from playing. No manual recognition of physical appearance is required and no physical interaction that could be difficult takes place. Accordingly, those instances are the result of the operators' failure to effectively implement their self-exclusion programme. However, this is only accurate for jurisdictions that require customer verification to take place prior to first deposit being made. There are several countries¹²⁴ that allow verification to take place up to 30 days (or when triggered by anti-money laundering legislation) from account opening. This creates a tension between the rules that require operators to check all customers against self-exclusion registers and the rule that allows this to happen potentially only after 29 days or more as operator may not necessarily know the identify of the player until KYC procedures are carried out.

As such, online self-exclusion does not necessarily stop players from gambling in land based venues, on alternative sites, or even on the same site from which the player self-excluded themselves. This occurs even in jurisdictions with national self-exclusion registers. For example, Hakansson and Widinghoff¹²⁵ noted that 38% of Swedish participants in their study published in 2020 admitted to gambling despite being entered in the national self-exclusion register, *Spellpaus*. Those breaches included gambling with another online casino (52%), another online sports betting sites (16%) and on illegal gambling establishments (4%). Similarly high rates were reported by Hakansson and Akesson¹²⁶ who identified that 68% of 85 Swedish self-excluders in treatment continued to gamble on unlicensed online sites

¹²⁴ E.g., Cyprus, Greece, Romania, Sweden, and others

¹²⁵ A Hakansson, C Widinghoff, 'Gambling Despite Nationwide Self-Exclusion – A Survey in Online Gamblers in Sweden' (2020) 11 Front. Psychiatry 599967; DOI: 10.3389/fpsy.2020.599967

¹²⁶ A Håkansson, G Åkesson, 'Multi-Operator Self-Exclusion as a Harm Reduction Measure in Problem Gambling: Retrospective Clinical Study on Gambling Relapse Despite Self-Exclusion' (2022) 9(8) JMIR Mental Health; <https://doi.org/10.2196/37837>

despite their self-exclusion and professional counselling and it is legitimate to assume that similar rates are likely to be present in other jurisdictions.

While such breaches hinder the effectiveness of self-exclusion programmes, they do not eliminate all benefits as the overall intensity of gambling tends to decrease. McCormick et al¹²⁷ also commented that it matters whether the breaches are formal or informal. They found that the reduction of problem gambling symptoms, as identified with reference to PGSI scores, was significantly smaller among those players who violated their agreement by still gambling on the formats that they have excluded themselves from but there was no significant distinction in the reduction of symptoms between players who self-excluded and fully abstained from gambling and those who self-excluded but still participated in informal forms or in those formats that are typically not part of the self-exclusion programmes (such as lotteries or scratchcards)¹²⁸.

5.6. Duration of self-exclusion

The duration of self-exclusion schemes varies from 24 hours to permanent. Very short terms of 24 hours or 7 days are relatively uncommon and with small exceptions those tend to be classified as ‘time-outs’¹²⁹.

Effectiveness of different durations have been examined in a few studies but none provides sufficient evidence that would determine optimal length. While specific periods have been recommended in the past, those were based on the authors’ professional views and were not supported by empirical evidence¹³⁰. Perhaps an optimal duration does not exist. As noted throughout this paper, self-excluded gamblers do not represent a homogenous group but include people from all sectors of society and who possess many different psychosocial characteristics and gambling disorder operates on many spectrums. As such, for some, a short breathing space will suffice while others need a lifetime help with preventing

¹²⁷ AV McCormick, IM Cohen, G Davies, ‘Differential Effects of Formal and Informal Gambling on Symptoms of Problem Gambling During Voluntary Self-Exclusion’, (2018) 34 J Gambl Stud 1013

¹²⁸ Ibid, (McCormick, 2018)

¹²⁹ M Carran ‘Consumer Protection in EU Gambling Regulations - Review of the implementation of selected provisions of the European Commission Recommendation 2014/478/EU across EU Member States. Follow Up Study’ November 2021

¹³⁰ D Pickering, A Blaszczynski, ‘Should I Stay or Should I Go? A Comparative Exploratory Analysis of Individuals Elective to Continue or Discontinue Self-Exclusion from Land-Based Gambling Venues’ (2022) 20 International Journal of Mental Health and Addiction 1182

temptation. Lack of flexibility of self-exclusion durations have been identified as a significant barrier and some argued that regulations should not stipulate any minimum or maximum periods at all. Instead, this should be chosen by the players and may be as short as one hour¹³¹. In the alternative, the optimum minimum duration of self-exclusion has been suggested to be 12 months¹³² but this contradicts most of current jurisdictional approaches. Despite the above, several considerations are worth noting. Overall, empirical evidence emphasises relatively consistently that self-exclusion of longer duration tends to be more effective than short ones in preventing a relapse upon return¹³³. For example, Hopfgartner et al¹³⁴ examined a total of 3203 players who entered into self-exclusion, of which 1382 resumed gambling afterwards. Of those, 1820 opted for a short term ban while 1383 chose the longer option. Of those who participated in short term exclusion, 75.3% (1379) started gambling again while only 0.9% (12) of longer term participants did so. Longer term exclusion was also associated with a reduction in how much money players spent on gambling following a return whereas the short term exclusion did not¹³⁵. Luquiens et al¹³⁶ evaluated levels of expenditure among online poker players following VSE and highlighted that the ban caused significant reduction in the amounts gambled generally but among those who were most heavily involved, short duration VSE showed no significant effect. Those findings must be counterbalanced by arguments advanced earlier by Collins and Kelly¹³⁷ and others¹³⁸ that periods that are too long may be counterproductive as players may want to terminate their agreements early. It may also act as another barrier as most people generally are reluctant to

¹³¹ A Thomas, R Carson, J Deblaquiere, A Armstrong, 'Review of Electronic Gaming Machine Pre-Commitment Features: Self-Exclusion' (2016) Australia Government, Australian Institute of Family Studies, Australian Gambling Research Centre

¹³² See e.g., C Ly, 'Investigating the Use and Effectiveness of the Tasmanian Gambling (Self) Exclusion Programme, Tasmanian Government, Hobart, Australia 2010.

¹³³ R Ladoucer, C Sylvain, P Gosselin, 'Self-Exclusion Programme: A Longitudinal Evaluation Study' (2007) 23 *Journal of Gambling Studies* 85

¹³⁴ N Hopfgartner, M Auer, D Helic, MD Griffiths, 'The Efficacy of Voluntary Self-Exclusion in Reducing Gambling Among a Real-World Sample of British Online Casino Players' (2023) *Journal of Gambling Studies*; DOI: 10.2007/s10899-023-10198-y

¹³⁵ Ibid, (Hopfgartner, 2023)

¹³⁶ A Luquiens, A Dugravot, H Panjo, A Benyamina, S Gaiffas, E Bacry, 'Self-Exclusion Among Poker Gamblers: Effects on Expenditure in Time and Money as Compared to Matched Controls' (2019) 16(22) *International Journal of Environmental Research and Public Health* 4399

¹³⁷ P Collins, J Kelly (2002) 'Problem gambling and self-exclusion: A report to the South African Responsible Gambling Trust' 6 *Gaming Law Review* 517

¹³⁸ E.g., S Gainsbury 'Review of Self-Exclusion from Gambling Venues as an Intervention for Problem Gambling' (2014) 30 *Journal of Gambling Studies* 229

commit to prolonged periods when their circumstances, ability to control their gambling or other factor affecting their decisions may change.

While no empirical data indicates that short term exclusion suffice for recovery from gambling disorder, other evidence suggests that short breaks should not be dismissed as they can also lead to positive outcomes. For example, Caillon et al¹³⁹ examined financial outlay and time spent on internet gaming sites by French gamblers 15 days and 2 months after their 7 days self-exclusion in comparison to a control group. Their findings showed no impact on the amounts of money spent after 15 days but after two months it showed a positive reduction in gambling urges and gamblers' perceptions of their inability to stop gambling¹⁴⁰.

However, what has not been examined empirically is whether the choice of the duration of self-exclusion should be determined by the gamblers themselves. This is currently the case within the permitted statutory periods but perhaps the duration should be determined by someone else irrespective of what the player may think they need. This could be a mental health professional or a designated person within the operators' site. This would make the entry to such schemes more complex but could potentially be more effective in the longer term.

5.7. End of self-exclusion and reinstatement

Two main approaches to termination of self-exclusion exist. Under the first method, self-exclusion terminates by itself upon the expiry of the previously selected duration and gamblers can resume gambling automatically without the need for any specific steps to be taken¹⁴¹. Under the second approach, the player only leaves the programme upon taking 'an active step' to reinstate themselves and mere passage of time does not suffice¹⁴². What is meant by an 'active step' varies. It can be as simple as an email to an operator or the national register that specifies the intention to return to gambling or it may involve additional

¹³⁹ J Caillon, M Grall-Bronnec, B Perrot, J Leboucher, Y Donnio, L Romo, C Challet-Bouju, 'Effectiveness of At-Risk Gamblers' Temporary Self-Exclusion from Internet Gambling Sites' (2019) 35 Journal of Gambling Studies 601

¹⁴⁰ Ibid, (Caillon, 2019)

¹⁴¹ M Carran, 'Consumer Protection in EU Gambling Regulations - Review of the implementation of selected provisions of the European Commission Recommendation 2014/478/EU across EU Member States. Follow Up Study' November 2021

¹⁴² N Turner et al, 'Efficacy of a Voluntary Self-Exclusion Reinstatement Tutorial for Problem Gamblers' (2021) 37 Journal of Gambling Studies 1245

requirements such as a completion of a self-test, creation of a safer gambling plan or an interview with a relevant professional.

For example, in England, if an individual wishes to resume online gambling following a minimum period on the national self-exclusion register, they must actively remove their registration from GamStop either through their online self-exclusion account or by contacting the registry. Failure to do so means that their registration remains in place for a further 7 years from the end of the minimum period¹⁴³. On the other hand, the active steps required in Ontario, Canada for the reinstatement process is more extensive. Individuals who wish to resume gambling need to submit a request in writing to the gaming sites. Such a request is then followed by a meeting with the security staff during which the player signs a formal acknowledgement of reinstatement and is given information on safer gambling and is also signposted to relevant support services¹⁴⁴.

Very few peer reviewed studies focused on evaluating specifically the reinstatement process. Price¹⁴⁵ recommended that for high risk gamblers, the process should include a mandatory creation of a 'safe gambling plan, a brief educational course delivered either online or in person, or professional counselling' but he hasn't tested his recommendation in a practical setting¹⁴⁶. The efficacy of an online educational tutorial on post self-exclusion gambling intensity and problem gambling levels was formally assessed by Turner et al in his study published in 2021 that included experimental and control group¹⁴⁷. The interactive tutorial was developed by the OLG and the Centre for Addiction and Mental Health in Toronto and included information about safer gambling, counselling and how to stay in control. The study found that the tutorial itself, when controlled for other variables, had no impact at all on reduction of problem gambling but the reasons behind this was not discovered¹⁴⁸. It was suggested that a pure information based tutorial is unlikely to be effective and instead "*brief*

¹⁴³ <https://info.gamstop.co.uk/hc/en-gb/articles/4404979894546-How-will-I-know-when-my-exclusion-period-has-expired->

¹⁴⁴ N Turner, J Shi, J Robinson, S McAvoy, S Sanchez, 'Efficacy of a Voluntary Self-Exclusion Reinstatement Tutorial for Problem Gamblers' (2021) 37 Journal of Gambling Studies 1245

¹⁴⁵ A Price, 'Best Practices for Self-Exclusion Reinstatement and Renewal. Paper presented at the 16th of international Conference on Gambling and Risk Taking, Las Vegas, Nevada

¹⁴⁶ Ibid, (Price)

¹⁴⁷ N Turner, J She, J Robinson, S McAvoy, S Sanchez, 'Efficacy of a Voluntary Self-Exclusion Reinstatement Tutorial for Problem Gamblers' (2021) 37 Journal of Gambling Studies 1245

¹⁴⁸ Ibid, (Turner, 2021)

counselling such as motivational interview or lessons in mindfulness might be a better option than a purely information tutorial"¹⁴⁹. However, this also was not based on any specific evidence.

Pickering and Blaszczynski carried out a comprehensive study among Australian players that evaluated their experiences towards the end of the self-exclusion period and of the reinstatement process¹⁵⁰. Their study focused on self-exclusion in land based venues but they examined gamblers' subjective experiences, their conduct and expectation of the termination of the VSE and as such many of the findings may be transferable to the online environment. Their sample consisted of 85 individuals, of whom 43.5% extended their self-exclusion while 53.5% allowed it to lapse. They reported that upon completion of the self-exclusion process, gamblers expected that 'they will be able to gamble freely again' (44.7%), that they 'will be informed prior to the end date that their VSE is due to expire so they can make an informed choice as to whether they should continue with the programme to control their gambling or whether they wish to resume their gambling activities (44.7% and 34% respectively) and that they will be supported in this process'¹⁵¹. 63.5% of the individuals were satisfied with either re-enrolment onto the VSE or reinstatement but at the same time a significant proportion (64.8%) did not feel adequately supported by gambling venue staff, counsellors or the self-exclusion operators and did not feel sufficiently informed. What they wanted to see was a process where *"they can re-enrol quickly and easily (57.6%), has an option to exclude permanently (49.4%) and a gambling 'safety plan' for those returning to venue (45.9%) (for example, money and time limits)"*¹⁵². On the basis of those the authors recommended that termination of self-exclusion process should include intervention and a structured safety plan as this would *"foster individual competencies and personal agency in the decision making process and help preventing relapses of gambling disorder"*¹⁵³.

¹⁴⁹ Ibid, (Turner, 2021)

¹⁵⁰ D Pickering, A Blaszczynski, 'Should I stay or Should I Go? A Comparative Exploratory Analysis of Individuals Electing to Continue or Discontinue Self-Exclusion from Land-Based Gambling Venues' (2022) 20 International Journal of Mental Health and Addiction 182

¹⁵¹ (Pickering) D Pickering, A Blaszczynski, 'Should I stay or Should I Go? A Comparative Exploratory Analysis of Individuals Electing to Continue or Discontinue Self-Exclusion from Land-Based Gambling Venues' (2022) 20 International Journal of Mental Health and Addiction 182

¹⁵² Ibid, (Pickering, 2022)

¹⁵³ Ibid, (Pickering, 2022)

On another continent, Hopfgartner et al¹⁵⁴ studied the impact of VSE on wagering amounts among English online casino players upon their return from VSE. They reported that gamblers spent less money after their return but this effect was not associated with participation in the scheme itself but with the general trend of spending less that was observed during the period of the study. Nevertheless, in the context of this section, they also recommended a structured approach to the return from VSE that could include the requirement for a gambler to “conduct an online self-test on problem gambling”¹⁵⁵. This recommendation was made as it would force gamblers to actively reflect on their behaviour and decide whether they should resume gambling activities or not and it would allow operators to intervene if players returning to gambling still endorsed PGSI scores. Interestingly studies from both examined jurisdictions (Australia and England) made similar recommendation despite some differences in the processes. In Australia, self-excluders coming close to the end of the programme are reminded by text or emails that their registration is due to expire. In the UK, however, the national self-exclusion operator will not inform players that their registration is due to end and it is up to the gamblers to contact them if they wish to terminate their participation. This brings two opposing arguments to a clash. On one side, it is argued that the process of reinstatement into gambling should be clearly communicated so players can make an informed choice¹⁵⁶. In the alternative, players may not wish to be reminded that they are now able to resume gambling as this may impact on their recovery and contribute to a potential relapse.

5.8. Voluntary self-exclusion versus third party / forced exclusion

The number of countries that permit exclusion to be initiated by third parties¹⁵⁷ is relatively small. However, they exist and in certain jurisdiction entry into the self-exclusion scheme can be initiated by family members, guardians, and other stakeholders with or without a court

¹⁵⁴ N Hopfgartner, M Auer, D Helic, MD Griffiths, ‘The Efficacy of Voluntary Self-Exclusion in Reducing Gambling Among a Real-World Sample of British Online Casino Players’ (2023) *Journal of Gambling Studies*; DOI: 10.2007/s10899-023-10198-y

¹⁵⁵ Previously suggested by Johnsson et al, 2017. J Jonsson, I Munck, R Volberg, P Carlbring, ‘GamTest: Psychometric Evaluations and the role of Emotions in an Online Self-Test for Gambling Behavior’ 33(2) *Journal of Gambling Studies* 505

¹⁵⁶ Ibid, (Pickering, 2022),

¹⁵⁷ Other than gambling operators themselves. As they are private entities and not public bodies, they typically are permitted to determine whether to allow the customer to use their services or not but this is governed by contractual rules and commercial considerations and are not driven by gambling regulations.

order¹⁵⁸. The effectiveness of such forced exclusion attracted very limited attention from researchers. The overall concept seems counter-intuitive as forced entry inherently remove the voluntary nature of participation and may be contrary to the players wishes. As such they may not be willing to cooperate with the programme causing enforcement to be even more difficult. A view frequently expressed among many stakeholders is that *“gamblers need to recognise their problems before they begin the self-exclusion process, and this recognition remains an important factor throughout the journey”*¹⁵⁹. This was articulated even more firmly by Tong et al¹⁶⁰ who cited one casino employee as saying that *“if the gamblers are not willing to apply for self-exclusion, no one can really force them to do so”*¹⁶¹. It is argued that recovery is only effective if the affected individual accept that they have a problem and take responsibility for resolving it¹⁶² and some submitted that forced self-exclusion may even increase the risk of iatrogenic effect of a more serious relapse following the ban¹⁶³.

Those concerns were recently put to the test by Kotter et al¹⁶⁴ who compared behaviours of forced and voluntary excluders in Germany. While the number of forced excluders in their study was very small¹⁶⁵ the results showed similar levels of abstinence and a reduction in gambling activities in both groups with the exception of gambling in gambling halls, online gambling and in private venues. The study further highlighted that while forced excluders demonstrated less acceptance of the programme, a similar proportion of gambling from both groups continued with self-exclusion at the end of its duration¹⁶⁶. This indicates that

¹⁵⁸ E.g., South Africa. For a European list see M Carran ‘Consumer Protection in EU Online Gambling Regulation: Review of the Implementation of Selected Provisions of the European Commission Recommendation 2014/478/EU across EU Member States – Follow up Study’, November 2021.

¹⁵⁹ C Devault – Tousignant, N Lavoie, M Cote, S Audette-Chapdelaine, A-M Auger, A Kakansson, M Brodeur, ‘Qualitative Experience of Self-Exclusion Programs: A Scoping Review’ (2023) 20 Int J Environ Res Public Health 3987

¹⁶⁰ KK Tong, EPW Hung, CMW Lei, AMS Wu, ‘Public Awareness and Practice of Responsible Gambling in Macao’ (2018) 34 Journal of Gambling Studies 1261

¹⁶¹ Ibid, (Tong, 2018)

¹⁶² A Blaszczynski, R Ladoucer, L Nower, ‘Self-Exclusion: A Proposed Gateway to Treatment Model’ (2007) 7(1) International Gambling Studies 59

¹⁶³ G Buhringer R Czarnecka, R Kotter, A Kraplin, ‘Requirements Concerning Gambling. Analysis from a Behavioral Research Perspective (2017) (pp.7-11) Bergisch Gladbach: Heider Druck GmbH

¹⁶⁴ R Kotter, A Kraplin, G Buhringer, ‘Casino Self and Forced Excluders’ Gambling Behavior Before and After Exclusion’ (2018) 34 Journal of Gambling Studies 597

¹⁶⁵ 187 voluntary self-excluders v 28 forced self-excluders

¹⁶⁶ Ibid, (Kotter, 2018)

mandatory self-exclusion may still play a part and may alleviate some of the previous concerns that have been raised.

5.9. Existing literature-based best practice recommendations.

Existing literature has abundance of best practice guidance as well as suggestions and ideas as to how self-exclusion programmes should be improved across many jurisdictions. However, there are many contradictions within those recommendations, some are broad and lack specific implementation details and only few have resulted from an extensive collaboration and consultation with various stakeholders.

Despite the above criticism, to which there are some important exceptions, three studies can provide good example of what has been and is considered to represent good practice. The first one is a literature review of land based self-exclusion schemes that operated in Quebec, Nova Scotia, Canada, Missouri and the Netherlands¹⁶⁷, published by Gainsbury in 2014¹⁶⁸. This review re-affirmed the overall utility of self-exclusion programmes and included broad recommendations of what the schemes should include. Those were relatively generic and almost all of them are now part of existing regulatory frameworks. The first one focused on ensuring that self-exclusion schemes are better publicised and information about them should be freely available, ubiquitous and written in an easy to understand language. While the uptake of self-exclusion is, in some countries, increasing¹⁶⁹, the discussion in this paper showed that the publicity of it and players awareness continue to require further work. The second one stipulated that gamblers should be able to self-exclude directly at the venue but also without having to visit the facility. This does not apply directly to online gambling, but indirectly it means that players should be able to self-exclude without having to access the gambling website from which they wish to ban themselves. Data provided by Casino Guru¹⁷⁰ indicate that this is already occurring as many providers allow for self-exclusion to be entered by telephone conversation or by email communication. In jurisdictions with national self-exclusion registers, registration may also be completed without any additional exposure to

¹⁶⁷ The section in the paper is titled Europe but the focus is on the Netherlands with only some mention of Germany and Switzerland and those cannot be taken to be presentative of the whole of Europe.

¹⁶⁸ SM Gainsbury, 'Review of Self-Exclusion from Gambling Venues as an Intervention for Problem Gambling' (2014) 30 *Journal of Gambling Studies* 229

¹⁶⁹ E.g., in England 2023 saw 84 000 registration on the GamStop national online self-exclusion register.

¹⁷⁰ Data by Casino Guru – methods permitted by major brands for initiation of self-exclusion

the gambling website itself. This also indirectly and partially occurs in countries where self-exclusion from one site initiates exclusion from all other sites (e.g., Italy) or all brands of the licence holder (e.g., Malta). However, it is still less common to have an online self-exclusion for land based venues.

Thirdly, operators should provide resources / information about safer gambling and should signpost players to relevant support or treatment organisations available. They should be permitted to refer players, with their agreement, to formal counselling, treatment or self-help programmes. Provision of information is now a regulatory requirement in almost all legalised jurisdictions and there is nothing that would stop operators to signpost players to self-help programmes. However, formal referral to medical treatment is typically still required to be done by a healthcare professional and cannot be done directly by the operators' staff. Fourthly, operators should take active steps to monitor their customers and intervene if evidence of harmful behaviour emerges. All self-excluded customers should be prevented from gambling and should be removed from any direct marketing or promotional communication from the license holders. Those are also part of regulatory requirements although how the customers' behaviour is or should be monitored and what indicators should be necessary and sufficient to justify interventions continue to be debated. Fourthly, reinstatement process should be active and should take place outside the venue before the customer is permitted to resume gambling. Additionally, the recommendations referred to enhancement that are needed to ensure better enforcement and the need for a more effective and regular training of staff¹⁷¹.

More detailed recommendations were made a year earlier by Thomas et al¹⁷². They focused on self-exclusion from electronic gaming machines but many of their recommendations may be equally important for online gambling. One of their most important proposals is underpinned by the principle of 'no wrong door policy'. This means that no matter who the gambler approaches first or to whom they write through online communication, they will be able to receive correct and relevant assistance and information about the programme¹⁷³.

¹⁷¹ SM Gainsbury, 'Review of Self-Exclusion from Gambling Venues as an Intervention for Problem Gambling' (2014) 30 *Journal of Gambling Studies* 229

¹⁷² A Thomas, R Carson, J Deblaquiere, A Armstrong, Sh Moore, D Christense, A Rintoul, 'Review of Electronic Gaming Machine Pre-Commitment Features: Self-Exclusion' Australian Government, Australian Institute of Family Studies (2013), republished with corrections in 2016.

¹⁷³ Ibid, (Thomas et al, 2016)

Initiation of self-exclusion needs to be straightforward and quick and must be possible with and without entering the venue or with or without accessing the website where gambling facilities are offered. It should also be possible to self-exclude without the need to speak to anyone. Their recommendation includes a statement that the system should permit 'anonymous' self-exclusion but the term anonymous was simply used to refer to the initiation of self-exclusion without the interaction with other people rather than being truly anonymous. They further recommended that the duration of self-exclusion from the electronic gaming machines should be very flexible and should range from 1 hour, through to 24 hours, 48 hours and longer periods' but they also recommended that self-exclusion should be revocable. Finally, they also re-affirmed the previous recommendations that the scheme should also signpost players in an efficient manner to counselling and other support services¹⁷⁴.

Parke and Rigby¹⁷⁵ also completed a review of existing evidence and analysed views of how self-exclusion should operate from two stakeholder groups: operators and treatment providers in Great Britain. Interestingly, their report demonstrated that at that time of publication there were still significant disagreements as to the respective elements of the schemes between stakeholders. However, consensus on some aspects was identified. Stakeholders agreed that self – exclusion should be '*actively but strategically promoted, quick and simple to implement, administered by attentive, well-trained staff, attracting sufficient investments in resources and technology to improve enforcement, comprehensive rather than isolated in coverage*'¹⁷⁶.

What continued to be disputed as to whether self-exclusion should be advertised as a tool that is intended to enable gamblers to fully abstain from gambling or whether it should be treated as a tool that aims to support control. Differing views were also offered regarding almost all other elements including whether self-exclusion should be revocable or not, whether penalties should be imposed for breaches, what the minimum duration should be,

¹⁷⁴ A Thomas, R Carson, J Deblaquiere, A Armstrong, Sh Moore, D Christense, A Rintoul, 'Review of Electronic Gaming Machine Pre-Commitment Features: Self-Exclusion' Australian Government, Australian Institute of Family Studies (2013), republished with corrections in 2016.

¹⁷⁵ J Parke, J Rigby, 'Self – Exclusion as a Gambling Harm Minimisation Measure in Great Britain: An Overview of the Academic Evidence and Perspectives from Industry and Treatment Professionals', Responsible Gambling Trust, 2014.

¹⁷⁶ Ibid, (Thomas, 2016).

whether players should be reinstated automatically or following a specific process and whether self-exclusion should be possible without any human interaction or not¹⁷⁷

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