



Via email - submission@pcrc.wa.gov.au

6th September 2021

Hon. Neville Owen AO
Commissioner and Chairperson
Royal Commission into the Casino Operator and License
Perth

Dear Commissioner Owen,

Financial Counselling Australia (FCA) and the Financial Counsellors' Association of Western Australia welcomes the opportunity to contribute to the Perth Casino Royal Commission.

FCA is the peak body for financial counsellors in Australia and FCAWA is the peak body in Western Australia. Financial counsellors work in not-for-profit community organisations and provide advice and support to people experiencing financial hardship, including from gambling.

Our previous experience with Crown Casino (6th Casino Review, Victoria)

We attach the 2017 submission from FCA to the 6th Casino Review in Victoria as well as media documenting further interviews with the lead case study in the submission (Attachment 1). The case study was Mark Robley's story. Mark lived in Perth and gambled while self-excluded at both Crown Perth and Crown Melbourne. This submission documented serious failings in the implementation of responsible gambling policies by Crown. Mark Robley's Crown story was also the subject of an ABC 7.30 Report on 23 October 2017 and wider media coverage.

Our point is that Crown and the Victorian and WA regulators had very public notice of Crown's responsible gambling failures and ample time to address these failures but did not do so.

We refer you to:

- 7.30 Report transcript: [Crown Casino accused of allowing 'self-excluded' gambler to spend \\$120,000](#) (Mark Robley), 23 October 2017
- [Peter's story: 'I went to Crown casino to gamble, take drugs and die. They did nothing to stop me'](#) (23 October, 2017, The Age). This was Mr Robley's story using a pseudonym.

FCA's 6th Casino Review submission covers the following themes that are relevant to the review of Crown Perth:

- Self-exclusion deficiencies including VIP rooms not checking the identification for all entrants, and allowing a WA self-excluded person to gamble heavily
- Drug runners in the casino and lines of cocaine being consumed on poker machines
- Loan sharks operating in the casino
- Failure to intervene in noticeably harmful gambling
- Failure to integrate security information with responsible gambling obligations (security seeing repeated trips to the ATM and drugged patrons)
- Credit being provided to customers

In Victoria, it appears that neither Crown nor the regulator have made any significant changes in response to the issues publicly raised, other than minor self-exclusion improvements.

In this submission we also draw your attention to seven more areas:

1. Crown Perth is failing to prevent predatory lending by loan sharks
2. Crown retaining proceeds of crime (willful blindness) and suggestions for law reform.
3. The UK has a better model for proceeds of crime that could be considered for Australia
4. Issues with Crown's self-exclusion and measures to improve it, including third party exclusion mechanisms
5. Issues with Crown's loyalty programs
6. Issues with self-regulation and the Crown Code of Conduct
7. A deficient regulatory structure and the case for why a national regulator is needed

Thank you for considering our submission. We would be available to assist the Commission further if required.

Yours sincerely

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1. Crown Perth is failing to prevent predatory lending by loan sharks

Despite it being prohibited by law, financial counsellors continue to report that their clients tell them that loan sharks are providing credit to patrons at Crown in both Perth and Melbourne.

Some loan sharks befriend or approach gamblers when they see someone gambling heavily within the casino. Some of these loan sharks are working inside Crown casino, and others just outside the casino's doors.

The following current case studies use pseudonyms.

Case 1: Stuart loaned \$10,000 on the floor of Crown Casino Perth – 'end up with concrete boots'

Stuart presented to a financial counsellor with a few debts including one of \$10,000 to a loan shark. After losing money in the Perth Crown Casino, he was approached in the casino. Stuart reported that the man said "I can help you out. I can lend you \$10,000 and maybe you can win the money back and we can all go home sweet."

He lost the \$10,000 and received a text message from the loan shark "I want this money back". There was the threat that he would "end up with concrete boots". He begged and borrowed to repay the money. It was \$10,000, plus an extra \$3,000 in a week. He was frightened for his life. He referred to the loan sharks as 'vultures on the floor'.

Case 2: Michael loaned \$10,000 on the casino floor – 'pay or you might go missing'

Michael was loaned \$10,000. A few weeks later, when he hadn't repaid the money, he was asked to meet the loan shark in Kings Park. The financial counsellor told us, 'we know when you are invited there in the dark of night, it isn't for coffee. Quite a few people have gone missing from that desolate, night spot.' Michael believed that he was being threatened with a message to 'pay it or you might go missing'. You could see the fear in his eyes. The man said that he wasn't able to report this to the police.

The financial counsellor said: 'Crown must be blind if they don't know that it goes on. They would see someone approaching people. There are cameras everywhere. The casino should be a safe place for people to gamble.'

Case 3: Aarush loaned \$100,000 – they will come to my house and get my family

Aarush gambled at the Perth Casino. He presented for help with a lot of credit card debt and "another \$100,000 that I owe to my friends". The financial counsellor connected that the 'friends' were in fact loan sharks operating from the Casino. They were from the same ethnic group as Aarush. Aarush was terrified. "I can't go to the police. They will come to my house and get my family". A few years later he is still paying them off, undoubtedly with heavy interest. At the time, he had to pay about 50% on top of what he borrowed.

This loan experience is comparable to a Victorian loan shark process, documented by RMIT researchers.¹ The members of a lending circle were from the same ethnic group, and they referred to the lending circle participants as friends. They tell financial counsellors 'my friend lent me money'. However, it was apparent that the friend isn't a friend in the usual sense of the word, but a loan shark with the same ethnicity.

Loan sharks hang about the casino, soliciting their countrymen who have lost their money. They speak the same language.

In this research study on Vietnamese women in prison, it was documented that the members contributed money into a pool which was then lent to those members who needed money for any purpose, including gambling or repaying gambling debts. Repayment with interest was enforced through threats, violence, and sometimes alternative illegal ways of repaying the debt. The borrowers were told that their family members, including those 'back home' out of reach of Australian law authorities, would be harmed if they didn't repay the money. Many of those Vietnamese women who were unable to pay back these casino gambling loan sharks were coerced to become drug runners. Those caught were imprisoned for drug crimes.²

Loan sharks clearly operate outside our licensed, lawful lending framework. It seems that they operate on or near Crown premises with relative impunity, both at Crown Melbourne and Crown Perth.

¹ <https://www.rmit.edu.au/content/dam/rmit/documents/college-of-business/graduate-school-of-business-and-law/Gambling-Harm-Report.pdf>

² <https://www.theage.com.au/national/victoria/crown-casino-gambling-debt-linked-to-drug-crimes-committed-by-vietnamese-women-20150501-1mxv6u.html>

2. Willful blindness and proceeds of Crime kept by Crown

We are concerned that Crown is incentivised to maintain a position that could be described as “willful blindness” to proceeds of crime entering the casino. Willful blindness is lucrative as Crown apparently keeps the money—even when a person steals money, gambles the stolen funds, and is incarcerated for fraud-related offences. The person gambling is often vilified in the media, yet the casino’s integrity is seldom questioned. Nor is the casino fined or chastised by the regulator. We observe that the gambling industry seems to bear few consequences even though its anti-money laundering processes and Know Your Customer obligations should have identified the illegitimate funds. Further, the innocent victim of the crime whose funds were used has no practical remedy to recoup their stolen funds.

This situation is amplified because Australia’s proceeds of crime legislation is inadequate. Further, the legislation is not invoked by gambling regulators, nor by the DPP and police who are part of the prosecution process that sends the gambler to prison. We do not appear to have a government authority returning gambling proceeds of crime to the victims. The only part of the process that works smoothly is the criminal justice system that punishes the gambler who commits fraud.³

The publicly reported court case of Perth office worker Maria Camarda demonstrates the consequences of turning a blind eye as to the source of a gambler’s funds.⁴ Ms. Camarda became a pathological gambler and stole \$2.1 million from the law firm where she had access to client trust funds in her administrative role. She gambled a good part of the stolen money at the Perth Crown casino.

If Crown had intervened by:

- identifying pathological gambling by time or money spent and responding appropriately, and/or
- following good AML processes to ‘know your customer’ and identify the source of funds

then Ms. Camarda would surely not have been able to continue gambling stolen money to that extent. The damage to the law firm’s trust funds would have been less, and Ms. Camarda would probably have received a lower sentence, if at all. Incarceration costs \$100,000-\$120,000 per person, so her 6.5-year sentence will cost the community conservatively \$650,000 plus court costs. Objectively, Ms. Camada and society at large would have benefitted from early gambling support professional help.

Under the current regime, there is no incentive for Crown to intervene, when Crown’s bottom line is directly benefiting from what appears to be willful blindness.

³ In online gambling, we regularly see the wagering operators reporting their customer to the police, when the wagering operator doesn’t receive its money or must return funds (e.g., there is a chargeback on the credit card used or a cheque bounces). There are high numbers of gamblers who end up in jail, referred by the wagering operator to the police.

⁴ [Law firm employee Maria Gloria Camarda jailed for stealing \\$2m to fund gambling, lifestyle](https://www.abc.net.au/news/2017-01-13/woman-jailed-for-2m-theft-from-law-firm-to-fund-gambling/8181150), ABC News, 14 Jan 2017 (<https://www.abc.net.au/news/2017-01-13/woman-jailed-for-2m-theft-from-law-firm-to-fund-gambling/8181150>)

Australia also badly needs stronger proceeds of crime regulation constructed for the gambling sector.

Legislation needs to cover not only crimes that end up in court but those that do not. Financial counsellors regularly see clients experiencing gambling related financial abuse. For example, it is common to see clients whose spouse has gambled with the other partner's money, without their consent. They may have re-drawn on their mortgage, transferred funds out of a spouse's account, or used their bank card to withdraw money from an ATM. In many cases, the gambling company could have, and should have, picked up that the funds did not belong to the person gambling. Not all cases are clear cut, but some definitely are.

There are many reasons why a family member would not report this sort of abuse to the authorities, including fear of the implications of this form of family violence. However, when the casino or other wagering operator becomes aware that the funds are not legitimate, they should not be a party to this financial abuse.

Federal Senator Andrew Wilkie has recently proposed legislation addressing gambling proceeds of crime. The Wilkie bill is modelled on the case of Gavin Fineff,⁵ a financial planner whose case will be heard shortly in a criminal court. Gavin has been trying to find a way to have his proceeds of crime returned to his innocent victims.⁶

⁵ A gambler had his betting account frozen after losing millions — then another two companies came knocking, ABC 7.30 Report, Steve Cannane, 9 July 2020, <https://www.abc.net.au/news/2020-07-09/gambler-who-lost-millions-says-he-was-targeted-by-betting-groups/12409910>

⁶ <https://andrewwilkie.org/if-its-stolen-give-it-back-rule-should-apply-to-gambling-giants/>

3. The UK has a better model for addressing proceeds of crime

In contrast, UK legislation enables its Gambling Commission to require gambling companies to return crime-funded gambling money, in addition to financial penalties.⁷ There is also a dedicated government funded body⁸ that investigates and returns proceeds of crime. It has both a range of proceeds of crime tools at its disposal including confiscation orders, and civil recovery. Australia needs similar regulation and similar regulatory tools.

What happens in the UK with gambling proceeds of crime?

- The UK Proceeds of Crime Act (POCA) creates [several principal offences](#) that apply to everyone and criminalise any involvement in the proceeds of any crime if the person knows or suspects that the property is criminal property. In the gambling industry the offences may involve the taking of cash, cheque, or card payments, based on funds which are the proceeds of crime, in the form of a bet or wager, or holding money on account for a customer for the purposes of gambling.
- There is an offence for gambling operators who fail to disclose suspicious activity (up to 5 years imprisonment), as well as civil penalties.
- The gambling regulator can suspend or revoke the company's operating license if they do not comply with the POCA, including if they don't have appropriate controls in place.
- Gambling operators must look at their customer's gambling patterns and consider *both* problem gambling and proceeds of crime in an integrated way, i.e., not in silos as happens in Australia currently.
- The UK Gambling Commission regularly investigates and makes orders for divestment of the proceeds of crime,⁹ typically where the gambling operator allows its problem gambling customer to gamble with stolen funds, where they should have realised that the customer did not have the means to fund that level of gambling.¹⁰

Further, the gambling operators have obligations to prevent problem gambling and to prevent money laundering and are heavily fined by the regulator if they fail to live up to these obligations. In March 2020, Betway was ordered to pay £5.8m to its customers' victims of crimes and a further £5.8m to fund

⁷ <https://www.theguardian.com/business/2020/mar/12/record-116m-uk-gambling-fine-meted-out-to-betway>

⁸ The Crown Prosecution Service has a specialist unit – [CPS Proceeds of crime](#) which is dedicated to asset recovery.

⁹ E.g Betway case, *Betway to pay £11.6m for failings linked to 'VIP' customers, 12 March 2020*: A divestment totalling £5.8m the majority of which was to go to victims where it has been found, or could reasonably be suspected to be, proceeds of crime. There was also a £5.8m payment in lieu of a financial penalty which will be directed towards delivering the National strategy to Reduce Gambling Harms. See <https://www.gamblingcommission.gov.uk/public-register/public-statement/detail/betway-public-statement>

¹⁰ [S. 304 Proceeds of Crime Act 2002 \(UK\)](#), states that 'property obtained through unlawful conduct is recoverable property. We believe that there is a government body tasked with returning funds to victims of crime.

the Gambling Commission's efforts to reduce gambling harm.¹¹ The UK regulator regularly fines operators and money is returned to the victims. It then publicises its determinations. This means there is both a deterrent element and other operators are educated about their compliance responsibilities.

4. Issues with Crown's self-exclusion program

On paper, it appears that Crown's self-exclusion process is solid in that once someone has self-excluded, a professional must warrant that they have successfully sought treatment for the exclusion to be revoked. However, in practice, financial counsellors have observed a revolving door of repeat exclusions and revocations.

When people go back into Crown, there are no protections, nor acknowledgement that the person is at risk, or vulnerable to, gambling harm. For many people this means that the harm continues.

We recommend:

- Limiting the number of times an exclusion can be revoked (a maximum of twice)
- A harm prevention plan to be completed by the revoking professional in conjunction with the client. The plan should include setting spend limits and/or time-based limits post revocation and possibly continued counselling or peer support to support the person in the transition
- That the casino is not allowed to offer inducements to those with a known gambling issue (i.e., those who have previously self-excluded)
- That casino self-exclusion is included in the National Self-Exclusion Register, so that people can build a comprehensive self-exclusion barrier across multiple modes of gambling. Consenting adults should be able to self-exclude easily with a few keyboard clicks. (See comments at the end of this section.)

What is needed to improve self-exclusion

Crown now has an online method of self-exclusion, and it covers both Crown Victoria and Crown Perth.

Make self-exclusion more comprehensive

Crown undertakes to stop Betfair marketing but stops short of including Betfair in the self-exclusion process. Other companies, such as the Entain Group treat requests for self-exclusion more holistically. If someone flags a serious problem with online gambling company Ladbrokes, serious enough to self-exclude, then the company also applies the self-exclusion to Neds, which focuses on horseracing, and

¹¹ <https://www.theguardian.com/business/2020/mar/12/record-116m-uk-gambling-fine-meted-out-to-betway>

other gambling entities in its group. Crown needs to do the same. We know that many gamblers move between physical and online gambling, particularly since Covid-19.

Casinos should also be part of the forthcoming National Self-Exclusion Register (see comments at the end of this section).

Provide financial disincentives to stop Crown turning a blind eye

We request that the Commission look at the consequences for breaches of self-exclusion. In Crown's [application for self-exclusion form](#) the patron has to sign the following:

I am committing an offence and proceedings may be issued against me if I enter or remain in any Crown Casino, including for Crown Melbourne, an offence against [section 77 of the Casino Control Act 1991 \(Vic\)](#) and under which I may be liable for a fine of 20 penalty units;

And

(Release and Indemnity) I agree to release and indemnify each Crown Casino and their related entities, together with their officers, employees, agents and contractors from any liability, including any losses that arise in connection with this Application; the Self Exclusion Order; or Self Exclusion Agreement;

The incentives are wrong. The penalty (20 penalty points) falls on the person with the gambling addiction under s77 not the rational actor, the casino, which is knowingly admitting patrons and observing their gambling. The legislated penalties for Crown's wrongdoing are absent or so limited that they would not be a deterrent. We urge the Commission to ascertain if these penalty provisions are in fact ever used against Crown. We suspect that Crown has seldom, if ever, been penalised.

Strengthen WA's legislation to provide for self-exclusion: make harm minimisation the focus

The self-exclusion form only references Victorian legislation, and it is unclear whether Victorian legislation would even apply to WA residents. We presume that the Victorian regulator would have little interest in pursuing breaches for patrons gambling in WA.

The [Casino Control Act 1984 \(WA\)](#) does not even mention self-exclusion. The only related heading is s. 26 *Banning People from Casinos*, but this section is silent as to self-exclusion. Section 26 appears to cover involuntary exclusion of a patron at the discretion of casino employees.

It is crucial that the Casino Control Act also has a harm minimisation focus. This approach has been adopted across Australia since 1985 for addressing the issues associated with the use of tobacco, alcohol, and other drugs which, like gambling, can result in addiction. The National Drug strategy 2017 -

2026¹² recognises that while drug use is complex and can never be eliminated, people who use drugs must be supported to progressively reduce harms not just to themselves, but to their families and the wider community.¹³ It is vital to legislate and to then monitor compliance with techniques designed to reduce harm such as self-exclusion. Crown should be required to demonstrate that it is meeting outcomes-based harm reduction markers set through regulation.¹⁴

We recommend that the Government introduce legislation designed for harm minimisation covering the following matters.

Self-exclusion

- The legislation would set out the Casino's obligations, and include penalties against the Casino for allowing someone to gamble while self-excluded when the Casino should reasonably have been aware of this, and well-thought-out processes for those seeking to overturn their self-exclusion.

Third party self-exclusion processes

Some jurisdictions allow family members and other third parties who see a person in trouble with their gambling, to flag this to the gambling operator or the regulator. The NSW Government recently looked at third party exclusions after the tragic death of [Gary van Duinen](#). Gary's wife knew that her husband was in deep trouble, approached the venue, but it had no process to accept third party notifications, and hid behind the excuse of 'privacy'. The venue continued to entice Mr van Duinen to gamble, and after another gambling binge, he took his life. With some regularity there is a family member or close friend who knows that there is an imminent danger, and these concerned people need to have a process for their valuable intelligence to be examined and then acted upon.¹²

Heavy penalties for breaches

Crown has full control over who enters its premises. This is set out in s 26(1) which recognises that people enter the casino under its licence and that the casino can revoke that license to enter. On a more intuitive level, Crown has to control entry in order to prevent minors from entering and for its own fraud prevention purposes. Further, with facial recognition technology and recent innovations such as QR codes being mandatory for Covid-19 tracing, one questions why there is any tolerance for Crown letting any excluded gamblers into the venue at all. In addition, Crown has access to data from the use of loyalty cards. Crown knows exactly who is in its venues and any breach needs heavy penalties (as has been legislated by the National Online Self-Exclusion Register).

¹² We can provide the Commission with further details, and the relevant contacts within the NSW Government. South Australia and Tasmania have legislated 3rd party exclusions. In South Australia, it is implemented through the regulator, and in Tasmania through the Mental Health Tribunal.

Casinos should be part of the National Self-Exclusion Register

Self-exclusion needs to be national, easy to do online, and handled through the National Online Gambling Self-Exclusion Register. The [legislation](#)¹³ was passed by Federal Parliament in December 2019. Under ACMA's watch, the register is currently being built, and trials are expected late in 2021, with a launch in mid-2022.¹⁴

It would be a timely to add functionality for a casino self-exclusion check box (the legislation would need to be amended).

The new legislation provides substantial penalties for gambling operator non-compliance. The regulator is the Australian Communications and Media Authority and has substantial powers.

¹³ [Interactive Gambling Amendment \(National Self-exclusion Register\) Bill 2019.](#)

¹⁴ *Significant milestone for Australia's first national gambling self-exclusion register*, 21 June 2021, <https://www.acma.gov.au/articles/2021-06/significant-milestone-australias-first-national-gambling-self-exclusion-register>.

5. Issues with the Crown loyalty program: you can't easily find out how much you've spent

[The Crown Responsible Gambling Code of Conduct](#), has a section on the Crown loyalty program. The loyalty program portal has a lot of information about benefits, account balances and how points may be redeemed. However, there is no access to basic information that allows people to know how much they have spent overall. This is the equivalent of keeping people in a windowless venue for hours, where they can't tell if it is night or day.

It is a basic tenet of responsible gambling that gamblers can find out what their net position is, and what they have spent over a period. We find that people struggling with gambling often have no idea what they have lost. Under the 2018 federal [Online Gambling Consumer Protection Framework](#), online gambling companies have to provide this information to consumers. It cannot be hidden, and a person cannot be made to jump through hoops to get it. Financial counsellors observe that it helps clients understand their financial position, especially when they seek help and are gathering the strength to control their gambling. When they see the documents, inevitably, they are shocked to learn the true extent of their net losses.

To get this information from Crown however, a person must go to the rewards desk, fill out a form and provide a photo (for privacy apparently), and then wait 5-7 days for the compliance team to provide the information. From our call to the Crown Rewards Information Hotline, we were told that there is no online method of doing this.

6. Issues with the Crown Responsible Gambling Code of Conduct: the preventative harm features are weak

- Crown player activity statements are totally inadequate. The statements only arrive once a year as provided in the Crown Responsible Gambling Code (page 10) and do not adequately show money flows. In contrast, when people look at their monthly bank statements they show the net balance, and money flowing in/out of the accounts. People can also see their net financial position easily online at any time.
- Monetary/time spend control limits are weak
- When a person reaches their betting limit, Crown sends a text, but the person can ignore it and keep gambling. The only consequence is that they do not receive any loyalty points. To keep gambling the person simply needs to take their loyalty card out of the machine, or move to another machine and not insert their loyalty card.
- People can load unreasonable pre-commitment limits, for example, tens of thousands of dollars per day. And even these parameters simply reset the next day.
- The Crown Responsible Gambling Code is silent on what should happen if there is a breach. It is very difficult for advocates to know the grounds for making complaints, and to know what consequences will flow from breaches. There would be more complaints if the regulatory structure was improved. At present, complaints go into a black hole.

7. The regulatory structure is deficient: a national regulator is needed

FCA's 2017 submission to the 6th Casino review in Victoria, considered Crown's self-developed Code of Responsible Gambling, concluding that it was deficient and needed to be significantly revised. The submission noted that the only positive obligation Crown imposed on its staff was to provide people who were gambling with loyalty program sign-up information. Very little has changed. The time for self-regulation, which is manifestly inadequate, has passed.

As part of the social license to operate, casinos need to be regulated by a single national regulator that is fit for purpose. Financial counsellors and others observing egregious conduct, need to be able to report these instances to a regulator that is resourced, has appropriate powers and is willing to use them. Ideally this should be a national regulator that is not beholden to a State Government treasury reliant on casino taxation revenue. Both consumer protection law and criminal law have been enhanced by harmonisation of legislation, and the time has come for gambling regulation to be brought into the 21st century.

A national regulator would also make a national self-exclusion scheme more effective. The Commonwealth, via the ACMA, already has responsibility for a national self-exclusion register for online gambling.

It is time for stronger regulation, based on harm prevention, that places obligations on casinos to operate responsibly. We recommend that the Commission examine the UK model of gambling regulation, where the regulator has powers and legislation concerning:

- Anti-money laundering
- Responsible gambling
- Return of the proceeds of crime

External dispute resolution (EDR) schemes work well in other industries and should be considered

Financial counsellors regularly refer disputes with banks, telecommunications companies and utility companies to the relevant ombudsman schemes. This system works well. The Australian Financial Complaints Authority (AFCA), the Telecommunication Industry Ombudsman (TIO) and the Energy and Water Ombudsman in different States operate much more efficiently in dealing with complaints. These industry EDR schemes collate systemic issues and relay those to the relevant regulators, and work on systemic issues collaboratively with them.

In contrast, Crown complainants only have a regulator to refer matters to and the regulators do not adequately handle consumer complaints.

EDR schemes have the benefit of being funded by industry so there is adequate funding. The more complaints, the more industry pays for the schemes to operate. This means they are scalable, sufficiently resourced, and have a built-in financial incentive for industry to reduce complaints. We recommend that a gambling industry ombudsman scheme be established.

Conclusion

We believe that a regulatory rebuild is necessary. Given the casino issues in multiple jurisdictions, and the reality of mobile Australians in contemporary Australia, the time has come for harmonised legislation and a strong national regulator and ombudsman scheme.

However, we acknowledge that taxation is state based and will stay that way.

We urge the Commission to consider recommendations that make it possible for consumers, including victims of crime and their advocates, to easily lodge complaints and get appropriate and timely redress. An industry funded ombudsman (EDR) scheme is a logical addition because they have worked well in other consumer driven contexts and are self-funding.

Prevention of harm is a worthy core guiding principle for reforms.

Attachment 1



Sixth Casino License Review
(Victorian Commission for Gambling and Liquor Regulation)

27 September 2017

Financial Counselling Australia (FCA) is the peak body for financial counsellors in Australia.

About Financial Counselling Australia

FCA is the peak body for financial counsellors in Australia. We support financial counsellors and provide a voice on national issues. We advocate on behalf of the clients of financial counsellors for a fairer marketplace that will prevent financial problems in the first place.

What Financial Counsellors Do

Financial counsellors provide information, support and advocacy to people experiencing financial difficulty including people impacted by gambling. Working in community organisations, their services are free, independent and confidential. Financial counsellors are required to hold, or to obtain, a Diploma in Financial Counselling. They need knowledge of a wide range of areas of law and policy, including consumer credit law, debt enforcement practices, the bankruptcy regime, industry hardship policies and government concession frameworks.

Financial counsellors also document their experiences and highlight issues that have a negative impact on their clients. Either individually, or through FCA, they consult with industry, government and other stakeholders to encourage practices that prevent financial and consumer problems in the first place.

The main causes of financial difficulty are unemployment, illness and relationship breakdown. Financial counsellors also assist many people trying to make ends meet on very low incomes.

There are also specialist gambling financial counsellors, who work with:

1. Clients who gamble, and

2. Concerned family members/partners. Some of this group are experiencing financial harm, including financial abuse, as a consequence of their partner's or family member's gambling.

About This Submission

This submission is largely informed by gambling financial counsellors and their clients. We directly interviewed the lead case study. Financial Counselling Australia has worked intensively in the gambling policy space for a few years and has been involved in the Federal Government's development of the new National Online Gambling Consumer Protection Framework.

In 2015, we published the report, [Duds, Mugs and the A-List: the impact of uncontrolled sports betting](#). This report was the catalyst for subsequent government reviews and ultimately the development of a consumer protection framework in online gambling.

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Executive Summary

If Crown Casino is not acting on flagrant cases of extreme and harmful gambling, then how likely is it to be proactive with problem gamblers who are deliberately flying below the radar?

In May this year a man with a deep-seated pokies addiction flew from Perth to Crown Melbourne to end his life in the casino. In his mind, if he dug himself into a deep financial hole, he would have given himself no choice but to suicide. He borrowed \$90,000, added this to his own funds of \$30,000, and aimed to lose it all, not to win. He went to a VIP room at Crown, where his ID was checked and was told **‘you didn’t tell us you had self-excluded at Perth Crown’ but we’ll still let you gamble here, just not in the VIP rooms.** He was on a bender, buying and taking drugs within Crown, and he told us he was even snorting lines of cocaine on the top of poker machines. He was in the casino daily for three weeks, losing heavily until he had nothing left. He had saved 40 ecstasy tablets for his suicide, getting massively high, before collapsing outside Crown when security then called an ambulance. The full facts are truly shocking – see our full case study in this submission.

Crown Casino holds itself out as an operator ‘renowned for excellence ...’ Its [Responsible Gambling Code of Conduct states](#)¹⁵, ‘it is our objective to ensure that Crown remains a world leader in responsible gaming practices ...’

Being a world leader in responsible gaming practices requires a degree of proactivity. It requires more than talk, leaflets and a logo.

The self-regulatory code of conduct is insufficient in both its scope and application, and consequently Crown Casino is failing in its commitment to provide safe and responsible gambling. There are no penalties for breaches, and clearly no incentives to ‘get it right’.

Nationally, the Federal Government has been working with the State and Territory gambling ministers to construct a [National Consumer Protection Framework](#). The standards are being raised, and Crown Casino’s blind-eye approach to patron harm is at odds with the national expectations of both the Federal and national gambling ministers. Crown’s online gambling business, including Crownbet is linked to its casino business via its loyalty program, and the standards need to be harmonized to provide consumer protection.

Crown Casino has fallen short in a number of areas. This submission highlights specific areas:

- General failure to proactively restrict or assist gamblers who are clearly gambling harmfully
- Inadequate self-exclusion, including across State boundaries

¹⁵ See ‘Crown’s Commitment to Responsible Gambling’, [Crown Melbourne Limited Responsible Gambling Code of Conduct](#) p 2.

- Loan sharks (and drug runners) being allowed to operate within and around the casino, preying on those who have lost a lot of money
- Crown Casino appears to be offering gamblers credit, despite this being prohibited under the Victorian legislation.

We are calling for an in-depth review of the Code from a harm minimisation perspective, and for the Victorian Government to move from self-regulation to an industry code with enforcement powers, penalties for breaches and independent code monitoring.

1. Peter's Crown Casino suicide attempt illustrates serious deficiencies

Our experience working with people who gamble harmfully is that there are typically layers of adverse events and experiences shaping their lives. We call these the “and then” factors. For example, someone close to the person dies, *and then* a job is lost or a business goes through a hard patch, *and then* a partner admits infidelity, *and then*

There are many combinations and permutations as everyone's lives and stories are different. Lives are complex, addictions are complex, and the ‘and then’ factors can happen randomly and in succession. Many people are at times extremely vulnerable, and it is for this reason that responsibility for protecting people from self-harm needs to be shared.

The companies that make their money from gambling have a duty to provide their services in a responsible manner, particularly as the harm from gambling can be severe.

Peter's Story* (real person, happened May-June 2017, name changed)

Peter and his wife moved interstate to try to escape poker machines. They knew Peter had a serious addiction, and in Sydney the pokies were everywhere. Their logic was that in Perth, the Perth Casino was the only place where pokies were permitted. The couple's strategy was to control the harm, by Peter signing up to Crown's self-exclusion register. Moving to Perth meant starting again socially, which was challenging. He got a good job in the mining industry.

Eighteen months ago, their marriage broke down, and Peter's life spiraled out of control. He started using drugs and the following year, he was made redundant. He applied to his bank for \$90,000 credit – this was approved and involved a bank personal loan and higher credit card limits. Peter then flew to Melbourne for the sole purpose of going to Crown Melbourne, gambling and then committing suicide.

I flew to Melbourne because I was self-excluded in Perth. I was trying to make things so bad for me ... to make it easy for suicide. I never had any attempt at winning. I just wanted to lose as much as I could as quickly as I could.'

At the casino, I got cash out. I had about \$15,000 cash in my bank account, and a few days later I got a \$12,000 redundancy payout. Then I had credit cards with \$2,000 daily limits. I had four credit cards, and I'd walk in and out of the casino to the ATMs. The security guards would see the same person going, then coming back in 2 minutes later, sometimes eight times in and out. I spent over \$120,000 in total in the three weeks. I only played cash. I gambled on poker machines.

I was losing a lot. They noticed. The public liaison officer came up to me and offered me a pass to go into one of Crown's VIP rooms. He checked my ID, and came back and said 'you didn't tell me

that you were self-excluded in Perth. ... But, it's all good as it doesn't apply in Melbourne.' I wasn't allowed into the VIP room but I could gamble in the main casino.

He asked how long I was staying in Melbourne. I said 'a few days'. I saw him another few times over the next three weeks. Two weeks later he saw me and said 'what are you still doing here?'

They offer you free rooms at the hotel if you're spending big. For me, it was important to be able to smoke, and get entry into the Mahogany room.

When I ran out of money I started selling things, my iPad, Macbook and iPhone. I posted the ads on Gumtree while I was playing the pokies, and within an hour there would be a reply and someone would come and meet me there. I'd also buy drugs. I'd reply to an ad online and someone would come meet me there within an hour. I'd meet them in Crown's food court. One Friday night I bought drugs inside the casino itself. A drug runner, a kid of about 20 years sat next to me and said 'do you want to buy drugs?' He passed it along to me. Some of it was meth and ecstasy.

By the third week I was 'racking up lines' on top of the poker machines. I did this a fair few times. Did they see me? There are so many cameras in there, they had to have seen the drugs.

In that third week, I met a guy who was friendly. He signed me into the VIP rooms as his guest. He had access to all the high roller rooms and took me to each of the rooms. They check your license when you go in, but I went in as his guest. There were \$500 a spin poker machines.

No-one from the Casino ever approached me [to offer help]. I was spending big, sometimes \$10,000 a day. All cash.

My plan was when I ran out of money, I was going to suicide. I'd saved a large quantity of drugs to OD on. I had 40 ecstasy tablets saved. I'd lost my last dollar on the Saturday, and took the tablets. I walked out and sat next to the river. I was hallucinating and freezing cold, so I went back into Crown and hid in the toilet for hours. The noise was driving me crazy, with the hallucinations, so I walked out, bumping into people in the casino. It was busy. I didn't know what I was doing. I then walked down to the casino's basement car park and lay down for a few hours in a carpeted area with lockers. Some young patrons tried to help me. Later, a security guard said 'you can't sleep here, you have to move on'. I think that there is a disjoint between security guards doing their security role and picking up problems. I moved back to the casino food court, but I was still really high. I went outside, but fell over at the main Crown entrance and couldn't get up.

It had become daylight. Someone called a security guard. I ended up in an ambulance and in hospital. The doctors said I should have been dead. A few hours later, I walked out of the hospital, climbed a crane and tried to jump. But I couldn't. I was doing everything I could to stare death in the face. But I couldn't do it.

I change as a person when I'm around pokies machines. I'm reckless and I don't care. I leave absolutely disgusted with myself, but then I'll go a week later and do it all again.

I interviewed this man at length for this submission, as it clearly seems unbelievable to outsiders that there was no intervention. I also spoke to the financial counsellor who is assisting him. Peter is seeing a gambling financial counsellor. He has debts of \$90,000 owed to the banks that gave him a loan, and increased credit card limits to gamble. He is unemployed.

Peter called a friend to borrow money to catch a flight back to Perth, and spent a few weeks in hospital in Perth getting help. He is now clean, and is working on improving his mental health with psychiatric treatment, and rebuilding his life. He is very worried about the bank debt.

2. Where Crown Casino failed in their commitment to responsible gambling

All of the below relate to the recent May/June 2017 example above.

- Crown actually identified this man as someone who was self-excluded in Perth, then let him gamble at Crown Melbourne, only excluding him from the VIP room initially
- Failure to consistently check ID for those entering the VIP rooms with high bet minimum amounts (patron signed in by someone else with ID not checked)
- Failure to prevent drug runners from selling drugs within the casino and broader Crown complex
- Failure to intervene in any way when a patron was clearly gambling harmfully and recklessly, spending \$120,000+ in just over three weeks, despite his behavior being an additional flag (high on drugs).
- Failure to intervene when a patron was consuming lines of cocaine on top of the poker machines
- Failure to integrate security information with responsible gambling obligations – the security guards would have seen the same person going in and out repeatedly to the ATM machines, a sign of likely harmful gambling. The security guard seeing the hallucinating patron in the process of trying to suicide on Crown premises, failed to do anything other than remove him.
- Failure to do anything positive to intervene, despite having a patron playing only on the pokies in its casino daily, for long periods each day, for three weeks.

Even if a person is bent on self-destruction, and the old argument is given “that a determined gambler will always find a way”, this recent and real experience still demonstrates that even basic interventions are not being implemented.

3. Where the Code itself fails to be best practice

Crown's Code of Conduct is self-developed. It does not include a positive obligation that staff will intervene (or it is not articulated in a way where there are incentives to make this happen in practice, for example penalties for non-compliance). This is a major flaw.

The following items are insufficient to discharge Crown's duty to provide a responsible and safe gambling environment:

1. A voluntary opt-in mechanism to set limits. The new National Online Gambling Consumer Protection Framework, will have opt-out pre-commitment. This means this is the default setting applying to everyone. This is informed by behavioral economics. Crown's voluntary opt-in pre-commitment has very low take-up, and is the least effective method of people controlling their spending.

The regulator could have a target sign-up level for Crown to achieve, with independent third party auditing. Currently there are multiple disjointed, minimal efforts to have people set either time or monetary limits, e.g YourPlay, Play Safe limits. The automated table games are treated differently to electronic gaming machines. From a human centered design perspective, people go to a casino and can mix their gambling between all the offerings, and therefore need to have a protective tool that covers all forms of gambling.

2. Loyalty program information is proactively provided to all members. Information about this is bizarrely under the Responsible Gambling Code of Conduct. There should not be a loyalty reward based on someone's losses, where the behavioral incentive aligns losses with loyalty point rewards. At the least, those racking up the most loyalty points should put Crown on notice that there may be a serious problem, and increase its positive duty to act. A better option is to not permit loyalty programs. The more people lose, the more they are rewarded ... this is not consistent with the responsible provision of gambling services or harm minimization.
3. Self-exclusion being treated as a limited State-based restriction. It is not best practice for Crown to acknowledge that its sister business in WA has self-exclusion in place, and then say 'it doesn't apply because we're under Victorian regulation'. This willful blindness is unethical and shocking.
 - a. There should be a national casino/self-exclusion program
 - b. All Crown businesses, including sharing of online self-exclusion registers, need to be part of the same operational process. If someone self-excludes from *everything* at Crown, this needs to include online and venue-based Crown owned

gambling. Turning a blind eye to someone's attempt to help themselves is harming people, and is not consistent with the responsible provision of gambling services.

4. Chaplaincy support services – the regulator should satisfy itself that this has an evidence base in relation to the efficacy of this service to warrant its inclusion as a harm prevention measure.
5. It is clearly not sufficient to provide brochures to at risk gamblers – behavioral economists in a financial decision making context have demonstrated repeatedly that these measures have little efficacy in banking and credit contexts.

4. Responsible gambling regulation compares poorly to responsible provision of alcohol regulation

The Liquor Control Reform Act 1998 is much stronger than Crown's voluntary code.

Alcohol is a legal product. Gambling in casinos is legal too. However, the regulatory framework around the responsible service of alcohol is much stronger than the voluntary code of conduct applicable to Crown.

Comparative observations:

It is an offence under s 108(4)(a) for an alcohol licensee to supply liquor to a person who is in a state of intoxication and under s 108(4)(b) the licensee must not permit a drunken or disorderly person to be on the premises. This has a penalty attached to it.

There is no offence or penalty, or even a consequence for Crown to allow out of control gamblers to deplete their entire financial resources.

We need proper legislation to achieve responsible provision of gambling in practice. A voluntary code is too weak.

5. Loan sharks operating at casino and within proximity

Is it conceivable that Crown Casino is turning a blind-eye to loan sharks operating within the casino?

Financial counsellors have told us that they are seeing people with debts to loan sharks. Some loan sharks befriend or approach gamblers whom they see someone gambling heavily within the Casino. Some of these loan sharks are working inside Crown casino, and others just outside the Casino's doors.

Particular ethnic communities are impacted heavily. For example, some financial counsellors work with Vietnamese women who are in prison for drug charges. When they (or their spouses) cannot pay back the loans, they are threatened and coerced into becoming drug mules or otherwise involved in illegal drugs, and when caught go to prison.

This has been corroborated by a study of 35 Vietnamese women imprisoned for drug crimes in Melbourne. The author writes 'specifically, problem gambling in Melbourne's casino provided both the main motivation and the necessary network brokerage for drug-related crime'¹⁶.

Of the 35 participants in the overall study, more than half (18) were driven into the drug trade to resolve debts incurred through casino gambling. When asked how they ended up in prison, these participants unequivocally explained 'it's because I got involved in gambling at the casino Further, they distinguished themselves from other drug trafficking offenders, suggesting that gambling had damaged their usual judgement. Participants themselves remarked on the disproportionate influence of gambling. Tuyan, for example, declared: 'In my view, 80 per cent of women in [prison], who were involved in drug trafficking, are here because they lost at the casino'. (pg 8)

In some communities, these lenders are not seen as loan sharks, but as trusted kinsmen who help each other out.

Once participants lost money, they obtained loans from other Vietnamese patrons at the casino. Three participants had themselves worked as 'casino lenders' before becoming gamblers – two of them using funds from their legitimate businesses, the other as a 'middleperson'. The media frames these lenders as 'loan sharks' who 'target' unsuspecting problem gamblers (The Age, 27 July 2009), but participants framed the loans as being akin to the informal Vietnamese lending practice known as *cho'i hu_i*, or 'the game of borrowing'. (page 9)

It is not legal for Crown Casino to give people credit to gamble. The *Interactive Gambling Act 2017*¹⁷ has recently been amended to prohibit online gambling operators from providing credit *or facilitating credit via intermediaries*. There are criminal and civil penalties for breaching this provision. It is unacceptable for Crown to turn a blind-eye to loan sharks operating in its casino, and it is credit facilitation by indirect means.

¹⁶ Roselyn Le and Michael Gilding, 'Gambling and drugs: The role of gambling among Vietnamese women incarcerated for drug crimes in Australia', *Australian and New Zealand Journal of Criminology*, 2014.

¹⁷ [Interactive Gambling Amendment Act 2017](#), 15C Credit not to be provided to customers of certain interactive wagering services

Case study – from a financial counsellor

This Chinese client had a loan shark 'help' her husband by providing funds to meet his Crown casino gambling losses. His casino gambling debts got so bad that he committed suicide. His financially inexperienced widow was trying to pick up the financial pieces and meet her husband's casino gambling debt obligations. She also gambled at the casino to try and pay off the gambling debts. She remembered he had spoken about people who were 'so helpful' to him, and she approached them for help ... the loan sharks. When she couldn't repay the money in the time frame, they trapped her with threats against her family overseas and here. She was essentially told to be a drug mule to pay them back. At that point she found her way to a financial counsellor.

6. Casino giving credit despite prohibition

[Casino Control Act 1991](#), S 68 Credit etc.

(2) Except to the extent that this section otherwise allows, a casino operator must not, and an agent of the operator or a casino employee must not, in connection with any gaming or betting in the casino—

- (a) accept a wager made otherwise than by means of money or chips; or
- (b) lend money or any valuable thing; or
- (c) provide money or chips as part of a transaction involving a credit card or a debit card; or
- (d) extend any other form of credit; or

(e) except with the approval of the Commission, wholly or partly release or discharge a debt.

Nationally, online gambling operators are now prohibited from providing credit, under the recently enacted reforms to the [Interactive Gambling Act 2017](#)¹⁸. In Victoria, under the [Casino Control Act 1991](#), (S 68 Credit etc) there is a clear prohibition on the Casino providing credit to its Australian patrons.

¹⁸ Schedule 2-Prohibition of credit betting. Credit is defined broadly in section 11A of the Interactive Amendment Gambling Act, more broadly than under the National Credit Code, see s 3,4,5.
Submission, Financial Counselling Australia 28/9/2017

Financial counsellors are still seeing clients present who have been offered credit by Crown Casino, as the following case studies demonstrate. Clearly there needs to be investigation into how this is happening, despite the legislation, and despite media attention raising this issue in 2014¹⁹.

Case studies – from a financial counsellor²⁰

[Crown Rewards](#) has five tiers of membership, and according to the Crown website, only level four (Platinum Tier) and level 5, (Black Tier) provides access to the high roller's Mahogany Room. To achieve Platinum Tier requires 100 status credits, with 500 casino and Crownbet points achieving 1 status credit point, i.e. 50,000 casino points within a six-months period.

Single parent on pension offered \$10,000 credit

A woman was invited to the prestigious VIP Mahogany Room. She wasn't your typical stereotype of a high roller, as she was on a single parents' pension. To retain membership of the Mahogany Room, patrons typically have to meet the spend thresholds over a six month period. The financial counsellor asked her how she had met the thresholds for high roller membership, and the woman explained that Crown offered her \$10,000 credit to maintain her gambling balances. She accepted these offers of credit.

Family man who had lost life savings offered \$10,000 credit

A man presented at a financial counsellor. He had lost the family home, family business and their life savings. He was a member of the Mahogany Room. At one point, he mentioned to the Crown cashier that he had no ready funds to gamble, and was offered \$10,000 credit, which he accepted and gambled.

¹⁹ ['Crown Casino exploits loophole to create secret bank for high rollers'](#), The Age, August 24 2014.

²⁰ See submission provided to the Victorian Commission for Gambling and Liquor Regulation by Maria Turnbull, Odyssey House Victoria (21 Sept. 2017)
Submission, Financial Counselling Australia 28/9/2017

7. Conclusion

This submission highlights substantial harm from current practices within Crown Casino. If Crown employees are failing to step in when there is obvious harmful gambling, then it is probable that they're failing also with less visible situations.

We are calling for an in-depth review of the Code from a harm minimisation perspective, and for the Victorian Government to move from self-regulation to an industry code with enforcement powers, penalties for breaches and independent code monitoring. Further, we are calling for self-exclusion and other consumer protections to have national application, so people trying to avoid harm do not fall between the regulatory gaps.

Finally, the issue of the Casino providing patrons with credit to gamble needs to be seriously addressed, so that it can't and doesn't happen. The casino appears to be breaching the legislative prohibition on credit. However, if somehow, it is finding a loophole ... the State legislation needs to change and fall into line with the new national legislation.

Postscript: the case study interviewee would probably be amenable to further discussing his experience with the VCGR commissioners.

