

PART RESPONSE TO IGA INQUIRY INTO BARRING ARRANGEMENTS

Introduction

The Gambling & Crime Prevention Subcommittee is a sub group of the Australian Crime Prevention Council of SA Branch (ACPC SA). Its main focus is the causal relationship between gambling and crime. Problem gambling, when considered in the context of crime prevention, is of increasing concern resulting from the impact of Electronic Gaming Machines (EGMs) which were more widely introduced across South Australia over twelve years ago.

The Gambling & Crime Prevention Subcommittee was established in 2006. Membership comprises representatives from a range of organisations committed to minimising harm and reducing levels of problem gambling in South Australia. These include:

- Australian Crime Prevention Council SA Branch (Chair)
- Australian Hotels Association SA (AHA / SA)
- Gaming Care (AHA / SA)
- Licensed Clubs of SA
- Offenders Aid & Rehabilitation Service (OARS SA)
- Regency Park TAFE
- Relationships Australia Gambling Help Service
- Salvation Army Kilkenny Gambling Help Service
- Sky City Adelaide
- South Australian Council of Social Service (SACOSS)
- Vietnamese Community in Australia SA Gambling Help Service

The subcommittee works within the guiding principles of the ACPC SA – which is to increase awareness of the importance of crime prevention in a broad range of areas and underpin its activities with supporting evidence. In this context, the subcommittee has developed a “terms of reference” that is centred around discussion, and sharing knowledge and experiences with a range of key stakeholders who have responsibilities regarding problem gambling and its connection to criminal behaviour. In addition, the group seeks to identify and implement initiatives and strategies that will further assist crime prevention.

Recent achievements

At the invitation of Australian Crime Prevention Council of SA Branch (ACPC SA), on 1st December 2008, Judge Mark Farrell from NYC began a four day work program in Adelaide specifically designed to stimulate discussion about a diversionary criminal justice system (primarily Court) approach to offenders who have committed non-violent crimes consequent to problem gambling. Judge Farrell is recognised in the USA as an innovator in the practice of therapeutic justice. He founded the first US Gambling Treatment Court in 2001; initiated the nation’s first suburban Drug Treatment Court in 1996 and the first Domestic Violence Court in 1997. He is also a Board Director of the US National Council on Problem Gambling. Judge Farrell is widely regarded as a committed and successful pioneer in this field.

In Adelaide, Judge Farrell was able to meet with senior politicians, Magistrates, Judges, Vicar General Monsignor David Cappo (Vice Chair of Australian Social Inclusion Board, Independent Commissioner for Social Inclusion Board SA and Independent Advisor for Executive Committee of State Cabinet SA), Alan Moss (IGA Presiding Member) and key welfare workers to discuss the structure and philosophy of his diversionary court. He also

gave the keynote address and conducted workshops at the National Association of Gambling Studies (NAGS) Conference which coincided with his visit. Response to his presentations was consistently described as “brilliant” and “impressive” as he actively engaged attendees in discussion and consideration of his innovative approach to problem gambling and crime related activity.

Inquiry into Barring Arrangements

The ACPC SA Gambling and Crime Prevention Subcommittee welcomes the opportunity to comment on the Independent Gambling Authority’s Inquiry into Barring Arrangements with a specific focus on the *Problem Gambling Family Protection Orders Act 2004*. Barring is but one form of prevention for problem gamblers, and current statutory barring schemes are covered across five pieces of legislation. Depending on the legislation, barring orders can be made by:

- A gambling provider
- The Liquor and Gambling Commission, or
- The Independent Gambling Authority.

The IGA currently has powers under the *Problem Gambling Family Protection Orders Act 2004* to respond to a complaint (made to the authority by a person deemed to have a “proper interest”) and intervene in a problem gambler’s life where a financially dependent family member’s wellbeing is being placed at risk. Orders made under the Act may canvass a range of matters such as:

- A requirement to attend counselling
- Barring from gaming venues or products
- Requirements about payment of wages and money management, and
- Requirements to close gambling accounts,

Although there are no criminal sanctions for breaches of these orders, the Authority may register an order in the Magistrates Court – which then makes it enforceable as an order of the Court.

Case Example

We offer the following illustration (with the client’s permission) of the powerful difference an intervention under the PGFPOS can make to a family affected by problem gambling.

Mr X was referred to Relationships Australia (SA) and was required under the Problem Gambling Family Protection Orders Scheme (PGFPOS) to attend at least 6 gambling counselling sessions and at least one relationship counselling session with his wife within a specified time frame. He was also required to have his salary paid into an account controlled by his wife. He agreed to be barred from placing any bets with SA TAB, attending any SA TAB outlet, and to close all accounts held with SA TAB. Some additional requirements pertinent to this particular case were also agreed to and included in the orders.

In the course of his first counselling session, Mr X reported that he had been gambling for 20 years, since he was 15 years old. Assessment placed him in the “pathological” range with a SOGS score of 16. He said he had sought help many times to control or stop gambling - from Gambling Help services, Flinders Therapy service, Gamblers Anonymous, a hypnotherapist and a private psychologist - but his drive to gamble continued to overwhelm his efforts to stop. He stated that he believed that his gambling was genetically inherited and a “disease” that he could never overcome.

His hunger for money to gamble had led him to many actions he regrets. For a period of 6 months he obtained money through an illegal ticket scam to pay for his gambling. He stopped when CIB turned up at his place of work, arrested him and charged him with 28 counts of False Pretences. This experience both embarrassed and frightened him. He said that his lawyer argued that he was addicted to gambling and that his father had also resorted to theft to support his gambling addiction. Mr X was fined \$250, was required to complete 250 hours of Community Service and was placed on a 12 month Good Behaviour Bond. His gambling continued, however, and two years later he began stealing valuable items from a major store. He sold them on and was making a substantial amount of money in order to continue gambling. After a couple of months he became aware that he was under observation by the store and was scared into giving himself up to the police. Again, he appeared before a magistrate facing larceny charges and was ordered by the magistrate to attend Gambler's Anonymous for a defined but relatively brief period of time (he recalls attending for approximately 2 months).

He continued to need money to gamble - often more money than he was earning. His wife worked part-time for a few hours each week which enabled her to provide food for the family in the weeks when no other income was forthcoming. Mr X took to bullying and threatening her into giving him what money she had. He became violent towards her and his child and both were frightened of him.

The intervention of the PGFPOS in this case was effective for several reasons:

- ◇ Mr X was frightened of going to gaol. It had been made clear to him that if he were to breach the orders in any way then the matter could be referred to the magistrate's court and gaol was a possibility. This fear was a powerful motivator driving his compliance with a strict and abstinent regime. He took the barring very seriously and not being able to gamble allowed him to experience 'not gambling' for the first time in his gambling life.
- ◇ He loved his family and very much wanted to be with them and provide appropriately for them. His inability to control his gambling was destroying his capacity to do this.
- ◇ While his wife was not hopeful that he would succeed, she was willing to remain in the relationship if he were able to stop gambling.
- ◇ He attended counselling and was open to exploring himself and the role gambling played in his life in a way he had not been ready to look at before.

Mr X attended counselling on a regular fortnightly basis for 9 months. He has not gambled now for 2 years and has chosen to keep the barring orders in place. He is enjoying significant improvements in his relationships with his wife and child, and has recently achieved a promotion at work.

This case reveals a trail of very serious negative effects of problem gambling for an individual and his family. It also demonstrates the success of the PGFPOS to minimise the harm to families and reduce the costs of problem gambling to society.

The relevance of extending the application of the PGFPO Act to magistrates can be understood in light of the numbers of problem gamblers who (as in the above case) deprive dependent family members of income and resort to crime to fund their gambling.

OARS SA is an organisation that specifically works with people and their families, who are at risk or currently involved with the criminal justice system. OARS SA Gambling Support Service (OARS SA GSS), an arm of this organisation, began in 2006 and to date 59 clients – ie. problem gamblers engaged in legal proceedings as a consequence of crimes committed

to enable their gambling - have received support. 30 of these clients are currently engaged with the service as at January 2009.

Of the 59 clients who have received support, 48 (81.3%) had family members directly impacted by their problem gambling behaviour. This equates to a total of 144 immediate family members of clients. Of these, 54 family members were either partly or solely reliant on the problem gamblers' income. 15 clients have completed their Court obligations; 11 were incarcerated as a direct result of crime specific to their gambling behaviours (impacting on 26 immediate family members, including children) and 4 received suspended sentences (impacting on 8 family members, including children).

We offer the following case example to highlight the opportunity for benefit if a Family Protection Order had been available to the Magistrate. For the purpose of confidentiality all identifying details have been altered.

Case A – Ms. Y

Ms Y, aged in her early 30's and living in suburban Adelaide with her husband and two children under 5, was the primary income earner while her husband (who worked minimal part-time hours) was the primary carer for the children.

Over a 3 year period, Ms Y's gambling escalated from occasional social use, to highly problematic, causing considerable distress to her family and resulting in family breakdown (with her father and step-mother disassociating from her), the loss of the family home and her loss of employment due to her theft from her work place to fund her gambling.

Matters relating to this theft saw Ms. Y interacting with the Court system for approximately 3 years prior to sentencing when she received an incarceration period of 12 months non-parole and a head sentence of 3 years. At the time of sentencing Ms. Y was 6 months pregnant and delivered her child during her time in prison. Four days after giving birth, Ms. Y was returned to the Adelaide Women's prison and her newborn child was taken into care by the family.

In the period preceding incarceration, the stress of the lengthy Court process and the lack of support available to her during that time contributed to her continuing to gamble, further compounding the negative effects to herself and her family. Had a Family Protection Order been accessible to the Magistrate at the time of her arraignment, this additional damage may have been avoided.

Recommendation

Following the success of Judge Farrell's visit to Adelaide, and in seeking to provide further assistance for problem gamblers and their families, it is recommended by the ACPC SA Gambling and Crime Prevention Subcommittee that the Problem Gambling Family Protection Act be amended to enable Family Protection Orders to be utilised in the Magistrates Court for non-violent offences committed to support a gambling addiction.

This will lead to greater awareness of the relationship between gambling and crime and enable identified gambling related crime to be dealt with via a contracted therapeutic regime monitored through the court system.