



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Betting, Gaming, Lotteries and Amusements
(Amendment) Bill: Committee Deliberations

13 January 2022

NORTHERN IRELAND ASSEMBLY

Committee for Communities

Betting, Gaming, Lotteries and Amusements (Amendment) Bill: Committee Deliberations

13 January 2022

Members present for all or part of the proceedings:

Ms Paula Bradley (Chairperson)
Ms Kellie Armstrong (Deputy Chairperson)
Mr Andy Allen
Mr Stephen Dunne
Mr Mark Durkan
Ms Ciara Ferguson
Mr Paul Frew
Ms Aine Murphy
Miss Aisling Reilly

Witnesses:

Ms Martina Campbell Department for Communities
Mr Ciarán Mee Department for Communities

The Chairperson (Ms P Bradley): I welcome Ciarán Mee and Martina Campbell.

Mr Ciarán Mee (Department for Communities): Thank you.

The Chairperson (Ms P Bradley): You can hear me. That is good stuff. Ciarán, do you want to give us a brief overview of each clause, starting with clause 1?

Mr Mee: Clause 1 is fairly straightforward. It basically states that, in the Bill:

"the 1985 Order' means the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985."

The Chairperson (Ms P Bradley): OK. I have got myself mixed up in what I was supposed to do here, but we will carry on.

We asked respondents to comment on the overall policy objectives of the Bill, and there were mixed responses to that question. Those who agreed that the Bill will meet its policy objectives focused mainly on the need to reform society lotteries. Those who disagreed made comments on a range of issues, including that a shift in policy objectives is needed to address the wider public health impacts of gambling; the Bill provides insufficient protection against gambling harms; gambling legislation is under-regulated here in comparison with the rest of the UK and Europe; Sunday opening will not help the situation; there is a case for tightening advertising protections for children and young people; and

the Bill does not attempt to deal with the unregulated online market, which accounts for the vast majority of gambling in Northern Ireland.

The majority of respondents had no comments to make on clause 1. The only substantive comment was that:

"Commitment is needed for a progressive programme of legislative reform, including but not limited to this Bill, to take account of the current gambling environment and the extent and severity of gambling related harms in the region."

Are there any comments on clause 1? No.

OK. I will move on to clause 2, which is the opening of licensed offices on Sunday and Good Friday. Ciarán, will you give a brief overview of that?

Mr Mee: Clause 2 is designed to allow licensed bookmakers' offices to open for the transaction of business on Sundays and Good Fridays but not on any Christmas Day. That amends article 31(1) of the 1985 Order, which currently prohibits bookmakers from opening on Sundays, Good Fridays and Christmas Day.

The Chairperson (Ms P Bradley): The majority of respondents were in favour of clause 2. Among the comments of support for it were that:

"the current full day restriction on betting shops on Sunday has been fuelling the use of illegal black-market activity in gambling".

Respondents also stated that it will:

"reduce the incidence of illegal gambling on Sunday and Good Friday."

Others said it was:

"Great to see alignment with both GB and ROI"

regarding that issue, and that it is:

"important to bring these sectors into line with other nearby jurisdictions and other leisure outlets."

Comments in opposition to the clause included that:

"the effect of more people working on Sundays will be deeply damaging to the voluntary, associational, lives of our communities";

concerns that extending opening hours in those establishments would lead to an "increase in gambling harm", that:

"Given the levels of problem gambling in Northern Ireland, it is disappointing that the first substantive clause in the Bill permits more opportunity for gambling to take place";

and that:

"more young people will be able to attend [bookmakers] during the day, which will inevitably drive up gambling for those under 18."

OK, members. Are there any comments on clause 2?

Ms Armstrong: Will the officials confirm why Christmas Day is the only day when betting cannot happen? Why was Easter Sunday not included in the Bill? *[Long pause.]*

The Chairperson (Ms P Bradley): Hello. *[Pause.]* Martina, we cannot hear you. Check that you are not on silent. *[Pause.]* We still cannot hear Martina. *[Pause.]* No.

Mr Mee: Do you want me to answer that?

The Chairperson (Ms P Bradley): Yes, that would be good, Ciarán.

Mr Mee: That is really just to do with the fact that there are events on Easter Sundays that are often of interest to bookmakers and so on. That is really the reason for it, as I understand it. Can you hear me?

The Chairperson (Ms P Bradley): Yes, we can hear you.

Ms Armstrong: I am just thinking about alignment. With liquoring licensing, we identified Easter Sunday and Christmas Day. This Bill includes Easter Sunday.

Is the rationale that there are opportunities to bet on Easter Sunday?

Mr Mee: Yes.

Ms Armstrong: The point is that particular days throughout the year would be seen as separate. I will put it like this: I do not know what events happen on Easter Sunday that people can bet on. It would be useful if we could get an idea from the Department of what those sports or items are.

The Chairperson (Ms P Bradley): Sean is mouthing "football" at the back of the room.

Ms Armstrong: Football. OK. There you go.

The Chairperson (Ms P Bradley): OK. Martina did you want to come in, if we can hear you.

Ms Martina Campbell (Department for Communities): Can you hear me now?

The Chairperson (Ms P Bradley): We can. Yes.

Ms Campbell: Oh, thank goodness. Sorry, I left and came back in. We are happy to consider including Easter Sunday. We will take that away and look at it for you.

Ms Armstrong: I just wanted to clarify why it was not included in the days when betting cannot take place and what sports take place then.

Ms Campbell: OK. Will do. No problem.

Mr Frew: Thank you. This is obviously a fundamental change with regard to Sundays, with all the pressures that that brings and all the principled stands that people make. It is a fundamental move; there is no doubt about that.

I was interested to hear the views of the Institute of Public Health and the Public Health Agency. Both said that the clause may exacerbate existing harms. The Institute of Public Health went so far as to say that they would not support Sunday opening without there being a gambling strategy and a regulator in place.

On the back of clause 2, what are the Department's views on having a gambling strategy and a regulator? Is it minded to put those into the Bill?

Ms Campbell: OK. First, on the regulator, the Minister is on record as having said that she supports having a regulator. However, as she explained during the debate at Second Stage, with the amount of time that is left in this mandate, it is not possible to include a regulator in the Bill, given all the powers and the associated issues that would come with enabling a regulator to function properly. A regulator will be considered — subject to the views of an incoming Executive, of course — in the next mandate.

On exacerbating existing harms and the call for a strategy, we are certainly willing to consider a strategy. We have established a cross-departmental group, and, at the minute, the focus is on the recommendations arising from the all-party group (APG) report. A strategy will certainly be in the mix in the future. I do not necessarily agree with what the public health bodies have said on exacerbating existing harm. If you look at other jurisdictions, such as England, Scotland, Wales and, indeed, the

Republic — the South of Ireland — you will see that bookmakers are open on a Sunday and they have online gambling, but their prevalence rates are lower than ours. Does that answer your question?

Mr Frew: Yes, it certainly does. Thank you for that. If you think that there is a difference between Northern Ireland and GB, and it is not down to the timings and accessibility, what do you put it down to?

Ms Campbell: It is hard to know, but I think that there are cultural issues. Traditionally, we have a big interest in horse racing, in particular. However, further research is required to delve into the whys and wherefores of higher prevalence rates here.

Mr Frew: I would welcome that research.

Mr Mee: We are also seeking to have some mitigations in this through the code of practice, for example, which you may have just received. It will have specific customer care provisions and requirements on bookmakers to take some responsibility for identifying potential problem gamblers amongst their customers, and so on. We are trying to bring in mitigations at the same time as this; it does not stand alone.

Mr Frew: On the point about the regulator, I accept that it takes time to install a regulator and establish the remit, role and principles around how they would operate, but if the Minister is minded to bring forward a regulator, and if the Department is convinced that it is the right thing to do, why would you not, at least, put an enabling clause in the Bill?

Ms Campbell: The main reason is that we have not investigated the issue of a regulator fully. You asked about the Department's views on whether a regulator is needed. Whilst we all support the principle of a regulator, we have not done any research to confirm whether a regulator is needed. There are other options. For example, we could have a memorandum of understanding with a regulator in another jurisdiction. That is one option. Until we do that research around whether we need a regulator, what a regulator would look like and what the form and function of such an office would be, we do not think it would be sensible to put an enabling power in the Bill. Furthermore, some of the powers that a regulator might have, or that you envisage a regulator might have, such as the power to investigate, are better included in primary regulations. Again, we have not done that work yet, and it is very much an item for phase 2. The Minister has said that she is considering appointing an independent adviser who could do that piece of work or, at least, give us some ideas about a regulator. We do not need a power to do that.

Mr Frew: I have another point that probably spans clause 3(2). There is a concern about people who work in bookies' shops. They work unusual hours. They usually start at about 10.00 am or 11.00 am, and they do not finish until 6.00 pm or 7.00 pm. You can imagine that, whilst they may be able to take their children to school, they will not be able to help them with homework and that type of thing. Sunday may be the only day that they have off work in common with the whole household or family. Are you convinced — maybe it is not your pigeon; it is not your Department's responsibility — that the current laws to protect workers' rights around time off in common are sufficient to ensure that there is not a detrimental impact on people who work for bookies?

Ms Armstrong: I will follow that up, because we heard evidence from the Turf Guardians' Association, which said that we should reflect the British legislation to protect workers. Perhaps we need to consider that for clause 3. As the Turf Guardians said, it is about reflecting that protection of workers.

Ms Campbell: Thank you. Yes. We have extended employment protections to workers. They can opt not to work on Sunday if that is against their religious beliefs or for family reasons. You are right, Paul, to say that employment rights are not our responsibility; they are for the Department for the Economy. However, the Minister consulted Minister Dodds when we were drafting the Bill, to seek her agreement to extend employment rights. For example, workers at race tracks — on-course workers — currently have the option to work on Sundays.

You mentioned unsocial hours, and there are other issues with working time, such as the maximum hours that people are allowed to work. We think that there are sufficient protections and that the clause that we have included that extends employment protections is sufficient to allow people to continue to have Sunday off work. The Turf Guardians mentioned the fact that they employ a lot of

people part-time and can work around their shift patterns. They did not see workers wanting Sunday off work as an issue because they would have sufficient people to plug that gap.

Mr Frew: OK.

The Chairperson (Ms P Bradley): Do other members want to comment on clause 2? We have strayed into clause 3, but, keeping to clause 2, is there anybody else? No.

We will move on to clause 3, on Sunday working in licensed offices. Ciarán, I know that we strayed into that, but will you speak to it very briefly?

Mr Mee: Yes, Chair. Clause 3 follows from clause 2. It is intended, in light of the Sunday opening provision, to ensure that bookmakers' office employees have the same protections against being required to work on Sundays as other types of workers. That is achieved by amending the definition of "betting worker" in schedule 8A to the 1985 Order. That schedule deals with Sunday working. Clause 3 also inserts an additional provision into article 53B of the 1985 Order, which deals directly with Sunday observance law. Under article 53B, Sunday observance law does not apply to track workers. It now will not apply to betting shop workers either.

The Chairperson (Ms P Bradley): OK, thanks for that, Ciarán. Members, a majority of respondents were in favour of clause 3. Among the comments in support of the clause was the comment that:

"their rights should be respected in line with any other day of the week."

One respondent said that they welcomed:

"protection rights for those who, for religious reasons or otherwise, do not wish to work on Sundays."

Another said that the clause would:

"effectively give the same Sunday working rights to employees of a bookmaker".

Comments in opposition to the clause included:

"Classification of bookmakers' working premises as "offices" is disingenuous. They are trading premises, where the public hand over large amounts of money for the experience of mostly losing it."

"Given the levels of problem gambling in Northern Ireland, it is disappointing that ... the Bill permits more opportunity for gambling to take place."

Do members wish to make any other comments on clause 3?

Ms Armstrong: I want to seek clarification. Are we saying that, between the Department for Communities and the Department for the Economy, the Department for the Economy will have to change legislation to ensure the protection for Sunday workers in order to bring those betting workers into consideration, or has that been sorted out enough by what you guys are doing here?

Mr Mee: Our understanding is that those parts of the Bill and the 1985 Order are at one with existing employment legislation and policy, which, obviously, as Paul said, is not our bailiwick, but we have liaised with the Department for the Economy about that particular issue.

The Chairperson (Ms P Bradley): When we were working on the Licensing and Registration of Clubs (Amendment) Act, we found that there were protections in place for Sunday working with that Bill as well. Are there any other comments on clause 3 from members who are present or attending via StarLeaf? If not, we will move on to clause 4.

Clause 4 is titled "Pool betting". Again, Ciarán, will you give us a brief overview of clause 4?

Mr Mee: Clause 4 amends the current restriction in the 1985 Order that only allows registered pool promoters to carry on a pool betting business at licensed tracks. Clause 4 now allows bookmakers'

offices to run their own pool bets from their own premises, subject to certain conditions that are set out in paragraph 3B in clause 4.

The Chairperson (Ms P Bradley): Thank you for that. Members, all respondents were in favour of clause 4. Among the comments in support of it was that:

"pool betting should be allowed provided it is restricted to a registered pool promoter."

One respondent said that they welcomed:

"the proposed Article 44 amendment to place the operation of pool betting, such as Tote Direct, in bookmaking offices".

Do members want to make any comments on clause 4?

Ms Armstrong: No.

The Chairperson (Ms P Bradley): OK. We will move on to clause 5, "Persons who may participate in bingo at bingo club".

Ciarán, will you go ahead with an overview?

Mr Mee: Clause 5 changes the eligibility rules in the 1985 Order that govern who may play bingo at a bingo club. At present, the Order allows a person who is employed in the bingo club premises — for example, a cleaner — to play bingo there without the need to be an eligible member. Clause 5 removes that employee provision, so that only bona fide club members or guests of bona fide members may play bingo at the club in the future.

The clause further removes the requirement in the 1985 Order that 24 hours must have elapsed from the time that a new club member makes an application to join a commercial bingo club before they can play bingo there. In short, members and their guests will be allowed to participate in bingo at the club without having to complete a statutory waiting period.

The Chairperson (Ms P Bradley): OK, thank you for that. Again, the majority of respondents were in favour of clause 5. Among the comments in support of it were:

"Alignment with GB and ROI is much welcome";

"It is a long overdue change that would bring these NI businesses into line with nearby jurisdictions";

"This amendment to the legislation appears to provide an additional level of consumer protection".

One comment in opposition to the clause was that:

"This is effectively a stepping stone to removing membership completely. Anyone can be described as a guest of someone".

Members, are there any comments on clause 5 at this stage?

As there are no further comments on that, we will move on to clause 6, "Days when bingo and use of gaming machines permitted on bingo club premises". Ciarán?

Mr Mee: Clause 6 deals with Sunday and Good Friday opening. It will allow bingo to take place and gaming machines to be used in bingo clubs on Sundays and Good Fridays but not on any Christmas Day. Currently, those activities are prohibited from taking place on Sundays, Good Fridays and Christmas Day under articles 76 and 108 of the 1985 Order.

The Chairperson (Ms P Bradley): Grand. Thank you. The majority of respondents were in favour of clause 6. Among the comments in support of it were:

"Alignment with GB and ROI is much welcome";

"Bingo players should be allowed to play whenever they want similar to other leisure activities";

and

"We support parity for Bingo clubs in Northern Ireland as otherwise this promotes or encourages illegal options."

Comments in opposition to the clause included:

"It encourages gambling, making people poorer overall";

"Sunday is a day that should be kept separate from other days. It should be a day for family";

and

"Increasing the availability and accessibility of gambling by extending opening hours of bingo club premises may increase prevalence of problem gambling."

Do members wish to make any comments on clause 6?

Ms Armstrong: If, at some point, we are minded to look at Easter Sunday, that would be reflected throughout the Bill. We will have to take a decision on that.

I want to ask about gaming machines. We are covering those at the moment, are we not, in clause 6?

The Chairperson (Ms P Bradley): Yes, the use of gaming machines.

Mr Mee: Gaming machines are covered in clause 7, I think.

The Chairperson (Ms P Bradley): Hold on.

Ms Armstrong: Sorry. My numbering may be wrong.

The Chairperson (Ms P Bradley): It is clause 7.

Ms Armstrong: Sorry. Go on ahead. I will deal with that later.

Mr Frew: Clause 6(2) —.

The Chairperson (Ms P Bradley): Clause 6 covers the placement of gaming machines. Is that right?

Ms Armstrong: Clause 6 is "Days when bingo and use of gaming machines permitted on bingo club premises".

Mr Mee: Yes.

Ms Armstrong: We are saying, at this stage, that bingo clubs will be required to comply with a mandatory code of practice, which will set that out. How quickly will those codes of practice come through?

Ms Campbell: If the code of practice is not in your pack, it will be in your pack for Tuesday's meeting. We issued it to the Committee only this week.

Mr Mee: It was issued yesterday or the day before.

Ms Armstrong: So, it has been issued. No problem. It could be my fault. I may have missed it.

Mr Frew: On your point about bookmakers' shops being open on a Sunday because of a sporting calendar, I did not realise that Easter Sunday is such a big bingo day. *[Laughter.]*

Ms Campbell: Yes. I take that point. We have kept the restriction just on Christmas Day to bring us into alignment with other jurisdictions. As I said, however, we will look at whether we could include a restriction on Easter Sunday, if that is what the Committee wants.

Mr Frew: I will progress that point further. We understand that anybody can bet on their phone.

Ms Campbell: Yes.

Mr Frew: They can bet on golf, football, GAA or any other sport that is played on a Sunday, and they can do so on their phone. There is, therefore, a logic to opening bookmakers' shops on a Sunday, even though it increases access. Why close bookmakers' shops when people can use their phone to gamble? If, however, people can play bingo every night of the week, as they can currently, and no big international bingo tournament is held over any weekend that people can view and gamble on, why are we aligning anything? Bingo involves a different psyche. Gambling on bingo is different from gambling on a sporting event. Bingo halls are completely and utterly different from bookies' shops.

Ms Campbell: Online bingo is becoming very popular, and you can play that 24 hours a day. Much as it is about aligning with other jurisdictions, it is also about trying to make sure that there is an even playing field for access. Like with all of the sporting events on which you can bet on your phone 24/7, you can, equally, play bingo 24/7. It is about trying to make sure that any disadvantage is eroded.

Mr Mee: Paul, a lot of our policy intent on Sunday opening is to align with things like amusement arcades, which open on Sundays. You can bet there as well. To us, it appears that there is a discrepancy in the law. That is the policy intent, but, again, we are happy to hear members' views on that.

Mr Frew: OK. Thank you for that.

The Chairperson (Ms P Bradley): Before I bring in Mark Durkan, I advise members that they will find the draft code of practice in their tabled papers. Go ahead, Mark.

Mr Durkan: Thanks, Chair. The officials beat me to this. I was not coming in to answer Paul's point, but I was going to make the point about online bingo and amusement arcades, which are able to open on Sundays. Easter Sunday might be a big day for bingo; I suppose that it depends on how many people have gone off bingo for Lent [*Laughter.*] The explanatory and financial memorandum (EFM) mentions article 108 of the 1985 Order, "Use of gaming machines on other premises". Where is that dealt with in the Bill? I have raised the point about gaming machines in takeaways and pubs a couple of times in our evidence gathering, although pubs are a bit different in that you generally have to be over 18 to be there.

Ms Campbell: Gaming arcades are already allowed to open on Sundays. We are trying to erode anomalies by allowing bookmakers and bingo clubs to open on Sundays. Gaming arcades or amusement arcades — whatever you want to call them — are already allowed to open on Sundays.

Mr Durkan: Sorry, Martina. I think that you have picked me up wrongly.

Ms Campbell: Apologies.

Mr Durkan: I probably presented it wrongly. We are talking about Sundays specifically, but where in the Bill do we look, generally, at the use of gaming machines on premises other than registered clubs, such as in takeaways? Are we looking anywhere in the Bill at those other premises, particularly those that are accessible for or open to people under 18?

Ms Campbell: We do not look specifically at gaming on premises in the Bill other than at clause 7, which introduces new offences in the playing of high-stakes gaming machines. We have also included gaming machines in the code of practice. Does that answer —

Mr Mee: Mark, you might want to look at page 29 of the code of practice. It sets out the types of machine and the permitted locations of gaming machines. Things like poker, bingo and other games of equal chance are already banned from pubs, clubs and commercial premises. We are not changing that. If you are talking about machines in —

Mr Durkan: Has anyone told the pubs, clubs and other premises that? There are plenty of them about.

Ms Campbell: Then, you are talking about an enforcement issue, which is for the PSNI. There should not be gaming machines in fast-food restaurants, takeaways, taxi depots or any of those places. As far as we are concerned, they are illegal, and that is an enforcement matter for the PSNI.

Mr Durkan: Clause 7, which we are nearly on to, creates a new offence of inviting, causing or permitting a person under 18 to play anything:

"other than a lower limit gaming machine".

What is a "lower limit gaming machine"?

Ms Campbell: That is one where the stake is, I think —

Mr Mee: It is 30p and £8. It is what we call an amusement with a prize lower-limit machine under the Order. It is one with a 30p maximum stake and a maximum prize value of £8. It would cover your penny falls, your crane grabs and those type of things, Mark.

Mr Durkan: I end up spending more than £8 on those as well.

Mr Mee: No; £8 is as much as you can win, Mark. If you spend more than £8, you will not get more.

Ms Campbell: You need help *[Laughter.]*

Mr Mee: You will make a loss *[Laughter.]* Thirty pence is the maximum legal stake for an amusement with a prize lower-limit machine.

Mr Durkan: OK, thank you.

Mr Frew: Just on that, I have not looked at the 1985 Order closely enough, but I take it that there has been a differential in gaming machines for decades.

Mr Mee: Yes.

Mr Frew: If you went into an amusement arcade back in the day, you always found that the card poker machines were in a different place from your Lite-a-Nudges and copper wins.

Mr Mee: Yes.

Mr Frew: How will you ever enforce the separation of those different machines other than physically, whereby they are in a different place or different room and you can stop people going to that second part of the establishment? If that is the case, is it articulated in that way in the 1985 Order or is that just left to premises to police?

Mr Mee: Without checking the Order again, I will say straight away that the code of practice specifically proposes that we require that higher-stakes machines are located only in over-18 areas of premises such as arcades. That would be a requirement of the code of practice. As I think the Minister articulated in the Assembly debate, the code of practice is intended, effectively, to become a condition of the licence so that, if you are mixing machines or allowing under-18s access to use machines, you would be at risk of losing your gaming licence. That is the route that we would go.

Mr Frew: OK, very good. Thank you.

Ms Armstrong: Can someone buy a gaming machine without having a gaming licence?

Ms Campbell: I think that they can, but reputable suppliers should check that the person has a permit or is in the process of acquiring a permit.

Mr Mee: Kellie, it is one thing to buy a machine; it is another to make it available commercially for people to play. You will need a permit for the latter. The permits and the licensing regulation system are for when you take it to a commercial level.

Ms Armstrong: Is there any register of gaming machines?

Ms Campbell: The courts maintain one. We listened in to comments that were made by the Committee. We are in the process of trying to gather some data on where gaming machines are and things like that. We do not hold that information. Until now, we have not considered that we needed it. However, given the views that have been expressed in the Committee, we are in the process of trying to locate that information from the Courts and Tribunals Service. We will make that available to the Committee in due course.

Ms Armstrong: For clarification: the courts will have information on those who have a licence for a gaming machine?

Mr Mee: Yes.

Ms Armstrong: When someone buys a TV, the retailer tells the TV licence people that a TV has been purchased. I am just clarifying that there is no way for someone who sells gaming machines to notify anybody that they have sold one and, therefore, for a list of people who have gaming machines and a list of people who hold a licence to be compared.

Ms Campbell: Not that I am aware of, but we will check and come back to you.

Mr Frew: It is great to hear that you have been listening in. I always like to hear that *[Laughter.]* You are alluding to the conversation that we had about the New Zealand stuff and the fees and the formula with regard to a commissioner or regulator. Whilst you are right that there will be a licence record, it struck me in that conversation that that is dead information. That information is collated and then it sits there; it is only for the perusal of a court if something goes wrong. I want to see data being used in a live way to manipulate or foster further regulation and data to help vulnerable people. When I talk about the gathering of data, I mean that it should be live, used and scientifically fed in. Things like player expenditure need to play into the formulas.

There is no point in having a commissioner or regulator if there is not solid data as to the direction in which we need to travel. The data is probably more important than the commissioner or regulator at this stage, unless you task the commissioner or regulator with gathering the data. It is the data that will help us all to move forward. You have hit a nerve with me. Is there anything in your thinking that will lead you to consider, between now and Consideration Stage, a clause on the collection of real-time data that would be used actively?

Ms Campbell: I agree 100% with most of what you are saying. Data collection, and constant monitoring and interrogating of that information, to make things better is very much part and parcel of good policymaking. I listen in every week; Big Brother — or Big Sister — is watching you *[Laughter.]* We are having conversations with our statisticians about how we can get together some baselines that we will be able to actively monitor. You touched on the amount of money that people spend on gambling. We believe that that information is held by HMRC. The Minister recently wrote to the GB Minister to see whether we can access any information — about the amounts of gaming duties that are paid and things like that — that would help to inform policymaking. All of that would inform the next phase of the reforms; it would ensure that we have the evidence that we need to put powers in place in the next phase.

You asked whether the regulator would be tasked with that. In England, the Gambling Commission receives an awful lot of data from the gambling operators. That is why it can say what the gross gambling yield is, what profits the companies are making, how many people are playing, and all of that. That is the sort of information that we would want to have access to but, at this stage, it is not possible. I will have to confirm it, but I think that it is article 171 of the 1985 Order —

Mr Mee: It is article 177; sorry.

Ms Campbell: It is article 177. It is good that you are on the ball, Ciarán.

Mr Mee: I am an anorak *[Laughter.]*

Ms Campbell: Article 177 already allows the Department to ask the courts to provide information on licences, the number of permits that have been issued and whether the court has specified the number of gaming machines that may be permitted. We have taken on board what you have said about having that information, but we wanted that information ourselves to help us in the next phase. We have asked the courts to provide us with whatever information they have. We will then have a conversation with them about how we can better collate the information that is provided to the Department, interrogate it and look to see what needs fixed. We will fix it in the next phase. Is that any help?

Mr Frew: Yes. It is certainly progress. We will see how things develop. Thank you.

The Chairperson (Ms P Bradley): Nobody else has indicated that they want to ask anything further on clause 6.

We will move on to clause 7, which we have strayed into already. Clause 7 is "Offence of inviting, etc. person under 18 to play gaming machine". Over to you again, Ciarán.

Mr Mee: OK. I apologise to the Chair and Kellie for the confusion on gaming machines there.

Clause 7 relates to the protection of children and young people. It creates a new offence of inviting, causing or permitting a person under 18 to play anything other than a lower-limit gaming machine. It sets out a definition of what is meant by a lower-limit machine: that is, where an amusement permit is in force and the prize value does not exceed £8, as stipulated in article 108(7) of the 1985 Order. Clause 7 sets out the mode of prosecution and punishment for breaches of the new law on allowing people who are underage to use high-stakes gaming machines. It also makes it a defence for a person who is charged to be able to prove that there was good reason to believe that an under-18 had attained that the age of 18.

The Chairperson (Ms P Bradley): OK, thank you. The majority of respondents were in favour of clause 7. Among the comments in support of it, one respondent welcomed the principle of the clause but stated:

"there is a concern that the absence of a Regulator means that there is no clear structure or resource for monitoring and enforcement."

That goes back to some of the points that Paul raised earlier. There was support for:

"any regulation that protects minors and the vulnerable".

One respondent stated that they would:

"welcome further information on the mechanisms for enforcing this offence"

Another said:

"it is appropriate to allocate the responsibility of preventing under-age gambling to those that operate gaming machines".

Comments in opposition to the clause included:

"Punishment for failure to adequately comply of six months in prison appears excessive ...

Gaming machines in betting shops in Northern Ireland and Great Britain have the highest safer gambling measures of any gaming machines in the world."

Do members have any comments on that? Can I ask something? Do you know those claw machines that you see in the foyer of a supermarket or wherever? Occasionally, there will be a £10 note or a £20 note wrapped around a teddy bear, a watch or whatever it might be. What way does that fall into it?

Ms Campbell: Strictly speaking, that is illegal, because the maximum prize — the current legal limit — is £8. We have no plans to change that. We have been having discussions with the Northern Ireland Amusement Caterers Trade Association (NIACTA), which appeared before the Committee, about removing what we class as high-value prizes from crane grabs. We will probably deal with that on a voluntary basis for now.

The Chairperson (Ms P Bradley): OK. Thanks for that. Do members want to ask anything further about clause 7?

Ms Armstrong: I know that it states in the code of practice where the notices on these have to be placed. Why do we not have a notice on the machine? The machine could be in a supermarket or in the main corridors of a shopping centre. If you have something on the door outside and something inside, nobody will see that. Surely the code of practice needs to state that the notice should be on the machine itself.

Ms Campbell: I think that the notice would be on a machine that is for over-18s, but under-18s are allowed to play those crane grabs. Ciarán, do you want to add anything on that?

Mr Mee: If it is a point about something that is missing from the code of practice, we are happy to take that on board.

Ms Campbell: Of course.

Mr Mee: I was trying to leaf through the code of practice there.

Ms Armstrong: It is page 12.

Mr Mee: Right. Thank you, Kellie. Page 12.

Ms Armstrong: Yes. It says that the minimum physical size for those notices should be A5 and font size 12, so we are being specific on that. I am just wondering whether we should require anyone who is using those machines —. If it is blatantly obvious on a sticker on the machine, they would have no justification for going into that machine and putting a tenner around a teddy; they could not say that they did not know about it.

Mr Mee: Yes. Fair enough.

Ms Campbell: We will have a wee think about that and come back to you formally, Kellie.

Ms Armstrong: Thanks.

The Chairperson (Ms P Bradley): Does any other member want to comment on or ask anything about clause 7? No. OK.

We will move on to clause 8, "Arrangements not requiring persons to pay to participate". Ciarán, it is over to you again.

Mr Mee: Clause 8 removes free-to-enter prize competitions from the definition of a lottery in article 131 of the 1985 Order. Clause 8 also sets out what does and does not constitute a requirement to pay in order to be deemed a lottery.

The Chairperson (Ms P Bradley): OK. Thank you. Members, the majority of respondents were in favour of clause 8. Among the comments in support of it were:

"This provision was removed from law in GB by the 2005 Gambling Act and we are supportive of its removal in Northern Ireland as well."

We also heard:

"It would seem logical to remove this from the definition of a lottery."

It was said that that would be:

"Logical, provided no purchase is necessary."

Comments in opposition to the clause included:

"The Bill is designed to provide clarity in relation to skill contests and free prize draws. The proposed changes fundamentally change the scope of free prize draws".

We heard:

"There are an increasing number of operators who are abusing the current legal framework in the UK as a way of creating quasi-gambling products ...

These types of product are often competing directly against regulated lotteries and tarnishing the image of the whole gambling industry".

Members, are there any comments on clause 8?

Mr Frew: I will talk about my niche interest now. I raised it during the Assembly debate. This is driven by constituents. At the minute, there is an anomaly. I think that it is connected to clauses 8 and 11. I know that you wrote to us on that point on 17 December. I am still trying to get my head around it, but it seems to affect article 168 and articles 131 and 132 of the 1985 Order. Constituents in Northern Ireland are paying into bank accounts or building societies — we will call them "banks" for now. In GB, those banks run prize draws, where there has been no need to pay, but customers could win substantial prizes. Those banks tell my constituents and the people of Northern Ireland that they are excluded because of our legislation. I am still trying to get my head around it, and it is still primitive thinking, Ciarán, but I am trying to make sure that the Bill, whether it be through clause 8 or 11, which might contradict each other, by the way — I am still trying to work that out — will release those companies from any danger or risk and enable them to afford the same rights to customers in Ballymena as they do to customers in Bristol to enter a prize draw by virtue of the fact that they are part of their banking set-up and pay money into the bank. I am asking for help to know where that lies — whether it is in clause 8 or 11 — and how it works and will help to resolve that issue.

Ms Campbell: Yes: you are not alone in having had a large number of complaints from constituents about that. The Minister receives an awful lot of correspondence about that very issue. The two clauses are connected. One is about promotional prize draws; say, where you have to have £10,000 of savings, or whatever, in a bank account and then you are entered into a monthly draw. That is classed as a promotional draw. The other clause is about prize competitions like the 'Daily Mail' crossword, for example, which is another issue about which we get an awful lot of correspondence. What we are attempting to do is to make it clear that those types of competitions are not illegal. Now, I cannot give you a guarantee that the Bill will change what Halifax does. Other banks do it, but Halifax is one of the main ones about which we get correspondence. That would be, entirely, a commercial decision for Halifax. As far as we are concerned, however, what we are doing is removing any impediment, perceived or otherwise, and making it clear that those draws are not illegal. After that, it is over to them to —.

Mr Frew: Of course. Businesses will make up their own minds about how they operate. Do both clauses 8 and 11 repair that damage?

Mr Mee: They are connected.

Mr Frew: I know that they are; I just cannot understand how. If I were to ask you where the line is in the Bill that salves that pain, I am struggling to find it. That is why I am asking. I am not trying to trip you up. I am trying to get my head around those two clauses better. It is my ignorance. It is nothing else but my ignorance.

Mr Mee: In broad terms, Paul, what you are talking about is not like a lottery or bet in the sense that no money changes hands in the hope of winning something. We are trying to clarify what the term "to pay to participate" excludes. The schedule would cover things like the cost of a postage stamp. You could buy a newspaper or be entered into a draw because you buy a washing machine or have a Halifax account. We are trying to make it clear that those things do not constitute payment to

participate in the competition, because, if they were, it would become an illegal lottery. We are now saying that payment to participate excludes certain things. The schedule to the Bill tries to provide more detail as well around what that means in clauses 8 and 11 and what is excluded. If you are thinking about payment to participate, that may help.

Mr Frew: Yes. In your correspondence, I see that you could make an argument about paying your money into the bank. Again, we want to make this as comfortable and concise as possible.

Mr Mee: You may be paying your money into the bank, Paul, but you are keeping your money in the bank. That is different from going to the bookies and making a bet where you lose your money unless you win. You do not lose anything by being part of this competition. If you are entered into a competition because you have bought a washing machine, you might not win the prize but you still have the washing machine. *[Laughter.]* That is putting it crudely.

Mr Frew: Are we saying that clause 8 removes that from being a lottery? We will talk about clause 11 when we get to it. Is that the primitive nature of clause 8? Clause 8 on:

"Arrangements not requiring persons to pay to participate"

states:

"For the purposes of this Part an arrangement is not a lottery unless persons are required to pay to participate in the arrangement."

Mr Mee: Yes.

Mr Frew: Are we saying that — you are not too far off the mark with the one that I am talking about — if that bank says, "I cannot offer you the same service in Ballymena because the law dictates that that would be a lottery", this removes that aspect of a prize draw being a lottery?

Mr Mee: Clause 8 tries to set out what does and does not constitute a requirement to pay in order to be deemed a lottery.

Mr Frew: Right. OK.

Mr Mee: Are you with me?

Mr Frew: I am. I am struggling, but I am, hopefully, with you, by my fingertips. I will have to think more about this. There is no doubt about that.

Mr Mee: You might want to look at the schedule to the Bill as well, Paul. You might find that helpful in looking at clauses 8 and 11.

Mr Frew: I will. Thank you. Thanks for walking me through that.

The Chairperson (Ms P Bradley): OK. Does anyone else want to ask anything about clause 8? No. We will move on to clause 9.

Mr Mee: Clause 9 repeals the current £1 price limit on the sale of a society lottery ticket. It also repeals the provision in the 1985 Order on the maximum amount of the proceeds of a lottery that may be appropriated for expenses. That is currently set at 20% where the proceeds do not exceed £10,000, and 15% where they do exceed £10,000. Clause 9 replaces that with an across the board maximum of 20% in all cases, excluding prizes and irrespective of the proceeds amount.

The Chairperson (Ms P Bradley): OK. Thank you. Members, the majority of respondents were in favour of clause 9. Comments in support of it included that:

"Charities and fundraisers should be allowed the freedom to set the price on their lottery tickets, which boosts their fundraising capacity."

"The current rules for societies' lotteries are completely outdated and limiting the fundraising capacity of many of our sports clubs".

"Charities should be able to set lottery ticket prices at a level they judge creates the best a compelling and engaging fundraising ask to their supporters and the public."

Comments in opposition to the clause included that:

"With larger ticket prices, people will more easily go into poverty, in the hope that they will win."

"The potential problems for Police are not just breaches of the gambling legislation but also the possibility of criminal money/assets being laundered through lotteries."

"While lotteries are often thought of as a 'soft' form of gambling, we are concerned that lotteries nevertheless normalise risk and potentially harmful behaviours".

Do members have any comments on clause 9?

Ms Armstrong: Ciarán, you just said the magic words "excluding prizes". Why is that not in the Bill? Clause 9(b) states that, for sub-paragraph (b), substitute:

"(b) 20 per cent. of the whole proceeds of the lottery."

Should that not be 20% of the proceeds of the lottery excluding the cost of the prize?

Mr Mee: We would have to look at the Order at the same time against that.

Ms Armstrong: We wrote to you, so you know about the ones that are online, but a good example is where somebody is offering a house. If, as you say, that house is exempt and outside of the expenses of that lottery, that makes it clearer. When I read clause 9 originally, I thought, "Oh my goodness, what happens to those organisations that offer a car? That would be part of their expenses", whether it is in kind, but if we are saying that that does not include the cost of the prizes, we need to put that in the Bill under clause 9(b).

Ms Campbell: If you look at the article that clause 9 amends, you see that it specifies that the maximum prize is £25,000. The Minister said that she intended to look at societies' lotteries with a view to the overall aim of increasing opportunities for fundraising for clubs and voluntary charities and so on. Some of that will be dealt with by secondary legislation, and we hope to have a draft of that with you in the very near future.

On the maximum amount of proceeds, all the issues that the Northern Ireland Council for Voluntary Action (NICVA), the GAA and the Sports Forum, in particular, raised are being dealt with mainly through secondary legislation. The reason why we are doing it by secondary legislation is that it is much easier and quicker to change. For example, in 1985, the prize limit of £25,000 was pretty big. It was practically the price of a small house in those days. We do not know when primary legislation will go through again, so it is quicker and more efficient to have those types of things covered by secondary legislation, which can be changed relatively easily.

Ms Armstrong: I just question us saying in the primary legislation:

"20 per cent. of the whole proceeds of the lottery."

It says "whole proceeds of the lottery". You cannot say "net proceeds of the lottery", because that has a different meaning, but you know what I mean. It is about deducting the cost of the prize, and then we leave all that you have just talked about for the secondary legislation. The 20% of the whole proceeds of the lottery seems to be the whole proceeds as opposed to deducting the cost of the prize first.

Ms Campbell: Paragraph (14) of article 137 of the Order, which the Bill changes, states that the amount of the proceeds of the lottery, exclusive of prizes, shall not exceed whichever is the lesser of the 20%, but it also deals with the maximum amount that can be calculated as proceeds. It is there in the original Order, but we will look at it again. That is not a problem. Maybe we did not explain it properly in our response, and we will certainly have a look at it for you.

Ms Armstrong: Thank you.

Mr Frew: It is my understanding that clause 9 does a lot of powerful work with regard to article 137, but I am still confused about whether it does enough work. When you look at paragraph (14) of article 137, which you rightly paraphrased, you see that it states:

"The amount of the proceeds of a lottery appropriated on account of expenses (exclusive of prizes) shall not exceed whichever is the less of—"

You are repealing paragraph (14)(b) of that article, which relates to paragraph (15). You are removing completely paragraph (15) and paragraph (14)(b). That means that paragraph (14) will state that:

"The amount of the proceeds of a lottery appropriated on account of expenses (exclusive of prizes) shall not exceed whichever is the less of—

(a) the expenses actually incurred".

Furthermore, in article 137, you are keeping those figures of "£25,000 or 10 per cent".

Ms Campbell: In terms of prizes, yes. We will change that by secondary legislation for the reasons that I explained to Kellie.

On the 20% for expenses, do not forget that the whole purpose of society lotteries is to raise money for good causes. Kellie, I think, alluded to the lotteries for million-pound houses and all of that where there is a commercial element. This is about trying to keep in place controls and to make sure that the maximum amount of funds raised go to the good cause rather than on expenses. For some of those prize draws, the expenses may include people's wages. As far as I know, Omaze is a commercial enterprise, which obviously would not satisfy the terms of a society lottery.

Mr Frew: Given what you said, there are still dangers with all of this, even though we know that the nature of those lotteries is to raise funds for community projects and everything else, which is a good thing. Why then are you repealing the limit completely instead of amending it? Of course, £1 is not adequate nowadays; of course it is not. You are completely removing paragraph (5) of article 137, which states:

"No ticket or chance in a lottery shall be sold at a price exceeding £1."

However, you are not putting a new limit on that. Is that because the safeguards and percentages in clause 9(b) take that danger away? Is that your view? If that is the case, would it not be better to set a new limit and future-proof it against inflation?

Ms Campbell: You are right. You make a good point. We have looked at that as the evidence has been heard. The Minister is willing to consider a new limit.

Mr Mee: We found that — you possibly found this during your sessions, Paul — the sector was divided in its opinion on whether a limit should be set. The more I listen to you and others, the more I think that we will have to look at that again.

Mr Frew: Do not ask me what the limit should be. That is a completely different question.

Mr Mee: That is our job.

Mr Frew: That has always concerned me about clause 9. Clause 9 does a lot of heavy lifting.

Ms Campbell: It does.

Mr Frew: It will have a massive impact. We just need to make sure that we get it right.

Mr Mee: Yes.

Ms Campbell: Yes. You are absolutely right. Some of the people who gave evidence cited the fact that, in England, there is no ticket price limit and spoke about the value of prizes etc. England has a very complicated licensing structure for society lotteries. Some of the licences are in the region of £4,500, and more. We are trying to keep this relatively simple, as far as we can, and within the current regulatory framework. That is not to say that we might not look at this differently in phase 2, and have different categories and licensing structures, but, for now, we have a relatively simple process in which permission from the council costs something in the region of £17. Most of the proceeds can be used for the good cause. However, we are willing to look at the potential of a new ticket price.

Mr Frew: This is my last question on this issue. If you were going to look at the limit of a ticket price, would it still mean that you would need to change the percentages, and that you would need to keep the other aspects of clause 9 — clause 9(b) and 9(c)?

Ms Campbell: We think that the position on 20% proceeds is OK. We based that on evidence that we received in the consultation and on general discussions with NICVA. We were trying to strike a balance. Some people want us to have the same position as England, but we do not feel that we can do that because of our measures around licensing society lotteries.

Mr Frew: OK. Thank you for your time on this.

Mr Durkan: Martina almost answered the question that I was going to ask about licensing. Do the societies and charities, for instance, that run the lotteries have to be registered charities? How do they have to be registered to run a lottery of any sort?

Ms Campbell: They have to be registered. There are rules set out in —.

Mr Mee: It is basically through the councils.

Ms Campbell: Yes, the charity registers with the council and gets a certificate to run the lottery. They have to make returns to the council on the expenses, etc. There is therefore some measure of control around that.

Mr Durkan: So they do have to be a charity.

Ms Campbell: The Order sets out who or what constitutes a society. Ciarán, do you know off the top of your head whether that is in article 131?

Mr Durkan: If it was done regionally across the North or even across the island, where do the returns go if it has crossed council areas?

Ms Campbell: They are generally registered in the council area in which their headquarters or whatever are located. There are rules around what should be on the ticket, including the name of the promoter, for instance. It will be where the promoter is based.

Mr Mee: It is the council area in which it is based. Mark, if the society lottery is based in a particular council area, it does not mean that the money for the good cause cannot go to people in another council area. It does not restrict it that way. In other words —.

Mr Durkan: You say, "good cause": sometimes, it might just be a cause. Are there any rules or regulations around political parties running lotteries?

Ms Campbell: I will have to come back to you on that one. *[Laughter.]*

Mr Frew: Do you have anything to declare, Mark Durkan? *[Laughter.]*

Mr Mee: If political parties are good causes — *[Laughter.]*

Mr Frew: *[Inaudible owing to poor sound quality]* give you an answer to that.

Mr Mee: I will say no more than that.

Mr Durkan: Will you come back on that?

Mr Mee: At the end of the day, it is about raising money for good causes, such as Action Cancer or whatever it may be. That is what the society lottery does. It has a base somewhere here, but it must register with the council in the area from which it operates.

Mr Durkan: OK. Thank you, Ciarán and Martina.

Ms Armstrong: On that point, we are working on the Charities Bill. There is the potential that organisations under a certain turnover limit may not have to be charities. I am thinking about money laundering. If a few people go round the doors to raise money for what looks like a good cause but they do not have to be registered as a charity, are they legal or illegal under this legislation? I was looking at article 131. I cannot see at the moment where it stipulates exactly what a society is. We are saying that, under the new charities law, some organisations do not have to be registered officially as a charity. I know that we may be thinking that they should still be registered somewhere so that the council can have that protection, but, if it does not change and they do not have to be registered if they are under a certain threshold, you could have anybody going round the doors to collect money for an alleged good cause. How can we protect ourselves on that one?

Ms Campbell: We will take that one away and have a look at it, Kellie. I think that it is set out in regulations, but I cannot think off the top of my head at the moment. I will come back to you on that. Sorry.

Mr Mee: Under interpretation in the 1985 Order, it says that a:

"society's lottery' means a lottery promoted on behalf of a society which is established and conducted wholly or mainly for one or more of the following purposes—
(a) charitable purposes;
(b) participation in or support of athletic sports or games or cultural activities;
(c) purposes which are not described... but are neither purposes of private gain nor purposes of any commercial undertaking".

We can look at that again, Kellie.

Ms Armstrong: For instance, take the family of little Jane, who needs a heart operation. They run a lottery with a prize in order to raise funds. How does that fit in? There may well be bona fide good causes that the public want to run. It is about how councils will be able to decide on that before they issue the licences and how we can ensure that money laundering cannot take place.

The Chairperson (Ms P Bradley): OK. Does anybody have anything further on — I have forgotten where we are — clause 9?

Mr Mee: Are we on clause 9?

The Chairperson (Ms P Bradley): Yes, we are still on clause 9, "Rules for societies' lotteries".

We will move on to clause 10, "Qualifications by age, residence or corporate status for licences, certificates and permits". I will hand over to Ciarán.

Mr Mee: Clause 10 amends the existing age, residency and incorporation requirements for receipt of bookmakers' and bingo club licences, gaming machine certificates and permits and lottery certificates. In essence, clause 10 reduces the age limit for receipt of those types of licences from 21 to 18. It also removes the requirement for recipients of such licences, permits and certificates to be resident here. The clause further allows certain corporate bodies to hold licences and certificates and to be granted amusement and pleasure permits. Currently, they are prevented from doing so under a range of articles in the 1985 Order, which are cited in the Bill.

The Chairperson (Ms P Bradley): OK. I remind members that the majority of respondents were in favour of clause 10. Among the comments in support of it were:

"18 years of age seems to be reasonable".

"It seems appropriate to make this change as it is in line with other parts of the law".

"the proposed requirements ... would bring it in line with the rest of the United Kingdom."

Comments in opposition to the clause included:

"Those taking part in organising such activities should be older than 18 [as] People are still very impressionable at such an age".

"the reduction in the age for licence holders seems a regressive measure given the need to protect young people from gambling harms."

OK, members. Are there any comments on clause 10? There are no comments.

We will move on to clause 11, "Prize competitions not requiring persons to pay to participate". Ciarán, over to you again.

Mr Mee: Clause 11 amends article 168 of the 1985 Order. Article 168 presently prohibits the conduct of certain newspaper and other prize competitions here. In short, the clause seeks to remove free-to-enter competitions from the article 168 prohibition: that is, competitions associated with the purchase of a product or service.

The Chairperson (Ms P Bradley): OK. Thank you.

Members, again the majority of respondents were in favour of clause 11. Among the comments in support of it were that:

"a free route of entry should be equal in access to a paid route of entry".

"While free prize draws may be something which would be used by commercial organisations, they may also be of interest to some sports clubs in [Northern Ireland]."

Comments in opposition to the clause included:

"Participation in a lottery encourages gambling, regardless of the amount of money required to participate".

"The offer of free bets is very alluring for people, it can lead to people developing a gambling disorder therefore they need to be regulated, restricted and banned".

Are there any comments on clause 11, folks?

Ms Armstrong: I wrote a question down when we were taking evidence. It is this: does that clause apply to charities? If not, can we get guidance from the Department?

The other thing that I want to bring up is newspaper draws and things like that. There is a different aspect other than just raising money or anything like that. We now have people mining data. It is about the collection of data. Someone could join by providing his or her email address. While they are not paying to participate, they are providing other valuable resources to those organisations: their data or contact points. Is there any consideration in the Bill about how that will be managed? How do we protect people? As everybody knows, as soon as you hand over your email address or contact details these days, you are tortured. They could sell that information to advertisers or somebody else.

Are we covered enough by what we are doing under clause 11? Does it apply to charities? If not, can we get guidance on that?

Ms Campbell: Including anything about the protection of data would be out of scope for the Bill. That would be covered by general data protection legislation.

The clause applies to any organisation, whether or not it is a charity. Are you thinking of the point that somebody raised, whereby they wanted to put people who donated into a prize draw? Is that what you are talking about?

Ms Armstrong: I cannot remember how the question arose. It was just whether it applied to charities. If it does, we do not need any further guidance.

Going back to the point about data, there is a value on data these days.

Ms Campbell: Yes, sure.

Ms Armstrong: We are thinking about it in monetary terms, but that data can be worth money to organisations. You said that it would be covered under data protection legislation. I do not think that that legislation would deal with that either.

We would need to change our consideration of value. As opposed to money and the raising of it, it is how data can be used to raise money. That is maybe not for this Bill, but it might be something that we will need to consider for the next piece of legislation. Data these days is nearly as valuable as being handed a tenner or £20 note.

Mr Mee: Kellie, the data is as much associated with the purchase of the product. You are automatically in the competition, or you can go into the competition, having qualified by purchasing the product. Your data is also taken when you are purchasing certain types of product. I mentioned a washing machine; it is that type of thing. It goes wider.

Ms Armstrong: If you want to enter a free draw, you have to hand over your data, which is valuable for a different reason. It might be a matter for different legislation, but, in this modern technological age, data is a commodity now.

Mr Mee: There is GDPR and all that.

Ms Armstrong: GDPR does not come into this, because, as soon as you join one of those things, you give permission for your data to be mined and used for other purposes. It is not a case of your data being illegally used. Your data is as valuable as cash.

Mr Mee: Yes.

The Chairperson (Ms P Bradley): Are there any other comments on clause 11, folks? No. OK.

Mr Frew: No, other than what I have said about clauses 8 and 11. I am still going through it, but, basically, we are inserting into the old article 168 of the Order new paragraph (2A). I am still trying to read across from the Order to the Bill. New schedule 15A is part of that, of course. I am still feverishly reading through all that.

The Chairperson (Ms P Bradley): We will move on to clause 12, "Cheating". Ciarán, back to you.

Mr Mee: Basically, clause 12 replaces the existing offence of cheating in article 169 with an entirely new offence. Clause 12 makes it an offence to cheat at gambling or assist others to cheat, irrespective of whether attempts to cheat are successful. It also contains a new definition of cheating.

The Chairperson (Ms P Bradley): Thank you. Members, all those who responded on clause 12 were in favour of it. Among the comments in support of it were:

"a criminal prosecution could be brought against anyone guilty of fraudulent and planned activity intended to deceive."

"The current law in Great Britain is working well, and we ... should align".

Do members have any comments on clause 12?

Mr Frew: On the offence, schedule 18 to the 1985 Order talked about a fine or imprisonment on indictment of two years or both and, on summary prosecution, the statutory maximum or imprisonment for six months or both, if I am right in saying that. Are you minded to change the penalty?

Ms Campbell: No, we are not. The penalties and fines are on a set scale. There is a convention on it that I do not think we can change, but we will certainly look at it for you.

Mr Frew: It was just a question. There is no burning desire from me for that, one way or the other.

Ms Campbell: Fees and penalties are on a set scale, and there is a convention on what applies when. We have taken them from that scale, and I do not think that there is flexibility, but we will look at it and let you know.

Mr Frew: OK.

The Chairperson (Ms P Bradley): Thank you. Does anybody else want to raise any issues on clause 12? No. We will move on to clause 13, "Enforceability of gambling contracts".

Mr Mee: Clause 13 repeals articles 170 and 171 of the 1985 Order. Articles 170 and 171 prevent gambling contracts from being legally enforced. Clause 13 does away with that in order to allow gambling contracts to be legally enforced, provided they are lawful in all other respects.

The Chairperson (Ms P Bradley): Thank you. Members, those who responded to clause 13 were in favour. Among the comments of support were:

"customers rights paramount".

"It is important that there is a 'level playing field' between gambling operator and consumer."

"supportive of legislation that will protect the consumer."

Do members have any comments on clause 13? No. We will move to clause 14, "Industry levy". We go back to Ciarán.

Mr Mee: Yes. Clause 14 makes provision for an industry or statutory levy. It allows DFC to make regulations for the payment of a levy to the Department by the licensed gambling industry. In accordance with clause 14, any regulations for imposing a gambling levy will be subject to affirmative resolution of the Assembly. The clause further requires that any regulations incorporate provisions for the payment and administration of the levy. That includes determining the amount to be paid according to a specified formula or other method. The clause also stipulates that any proceeds from the levy are to be expended by DFC on projects related to gambling harm, addiction or other forms of harm or exploitation associated with gambling. Under the clause, DFC will be required to consult organisations that appear to represent the interests of the gambling industry here before we can make regulations for a levy. Any proposed expenditure of levy proceeds will also require prior DOF approval.

The Chairperson (Ms P Bradley): Thank you. Those who responded to clause 14 were in favour of it. Among the comments in support of the clause were:

"It is encouraging to see legislation that generates monies through the gambling operators."

"The gambling operators should take some responsibility to address the very real need of those who become addicted to gambling."

"The Bill should be amended to make the levy mandatory and meaningful."

"A levy on gambling industry turnover, to fund problem gambling treatment; prevention; education and research is considered international best practice."

Do members want to make any comments on clause 14?

Ms Armstrong: I have a few comments, but I will try to get through them. We talked about the New Zealand smart levy, and I would love to hear whether you have had a look at that. New article 172A(2)(a) applies to an application for a bookmaker's licence. Will you clarify whether that applies to the National Lottery scratch cards that are sold here? Will we require those shops that sell National Lottery tickets and scratch cards to pay a levy?

New article 172A(6) states that the "interests of the gambling industry" need to be taken into consideration. There is a missing part there, and we should include consultation with addiction services. I have a note here to look at clause 15, and the amendment to article 180 of the 1985 Order at new article 180A(10)(b). We have the gambling industry talking about how much it wants to pay for addiction services, and not to include addiction services is a bit remiss. In fact, I would nearly exclude the gambling industry from that because why would it take that decision? The levy is there for the particular purpose of raising funds to help addiction services. Rather than the gambling industry having a say in how much it is going to pay, surely it should be more weighted towards addiction services and the health and well-being of people. I would love to hear your thoughts on that.

Ms Campbell: Yes. We would consider rewording that clause. When we talk about consulting, we automatically include the Department of Health and organisations that have an interest in gambling. I can see where you are coming from. The wording of the clause is maybe not ideal. We are happy to look at that again. We attended all the all-party group meetings and saw the presentation on the New Zealand model.

It is too early to define it at this stage, however. It is just an enabling power, which means that it gives a future Minister and future Executive the power to introduce a levy. All those matters — what model to use, how much it is, who should pay — will be discussed when the future Minister comes to exercise that power. For now, all we are asking is whether the Assembly thinks that it is a good thing for a power to be included. Does that cover all your points?

Mr Mee: There is the National Lottery.

Ms Campbell: Oh yes, the National Lottery.

Mr Mee: The answer to your question, Kellie, is no. We do not have the vires to impose requirements or restrictions on any aspects of the National Lottery. Those powers reside in London.

Ms Armstrong: I want to check the situation with National Lottery terminals. For instance, does a shop that sells National Lottery tickets have to have a licence? Is the local large supermarket or corner shop that has a National Lottery terminal required to have a licence because it is selling a betting product?

Ms Campbell: All that is dealt with under National Lottery legislation. It is nothing to do with us. It is regulated by Westminster.

Ms Armstrong: OK. Do you know whether shops that sell that betting product pay a levy to London?

Ms Campbell: I do not think that they pay any levy, because there is no requirement for a levy to be paid in London or in other jurisdictions.

Ms Armstrong: Scratch cards are an addiction problem. I am concerned that we are looking at bookmakers, bingo clubs, gaming machine certificates and amusement permits but are leaving out the most accessible betting product on the high street.

Ms Campbell: Yes.

Mr Mee: The powers there really reside with the Department for Digital, Culture, Media and Sport (DCMS). National Lottery regulations apply to that whole aspect. There is nothing within our power. We can raise the question, but it will have to be raised with DCMS.

Ms Armstrong: OK. It is just that retailers have the products in their shops as an attraction to get customers to come in. Scratch cards are sold in Northern Ireland. The National Lottery is the National Lottery, but even so.

I have been asked about on-course licences. On-course bookmakers are being hit with the same levy as everyone else, but they operate on only 22 days a year. Is any consideration being given to making their levy a different amount from the others?

Ms Campbell: As I said, no decision has been made on the amount of levy, how it should be calculated or any of those matters. It is a bit premature at this stage to assume that on-course bookmakers would be asked to pay the same levy. No decisions on that have been made.

Ms Armstrong: I have raised it now.

Ms Campbell: Yes, and I know that it was raised with you. I appreciate that. We cannot emphasise enough, however, that we are only making an enabling power at this stage. All the detail will be dealt with by regulation. As I said earlier in relation to something else, the reason why you put that type of detail in regulations is because it can be changed or amended more quickly. Rather than having to wait for primary legislation to go through, you can increase or adjust the levy or add people much more quickly. That is why you usually put that type of detail in regulations. I understand why people always want to see that detail in a Bill: they feel that it gives them better protection.

Mr Mee: We also recognise that there is not necessarily a one-size-fits-all levy. That is another reason why we prefer to look at how the levy might work through secondary legislation rather than having a blanket power in primary legislation, which is very difficult to change.

Ms Armstrong: We know how well you have been listening to us. We are almost writing the secondary legislation together now, are we not? *[Laughter.]* It is much appreciated, thank you.

Ms Campbell: OK, thanks.

The Chairperson (Ms P Bradley): Do members have any further questions on clause 14? No.

We will move on to clause 15, "Code of practice". Ciarán, as you know, we have just received the code, so will you talk us through it?

Mr Mee: Clause 15 imposes a new requirement on DFC to:

"issue one or more codes of practice about the manner in which facilities for gambling are provided".

Codes of practice must ensure that gambling here is:

"conducted in a fair and open way".

In addition, they must ensure that people under 18 and other vulnerable groups are protected from gambling harm and that operators make assistance available to those who:

"are or may be affected by problem gambling."

Clause 15 also states that whilst failure to comply with any part of a code does not of itself constitute a criminal offence, the code can be admitted in evidence in criminal or civil proceedings. Clause 15 further sets out arrangements that DFC must follow with regard to consulting on and publishing codes of practice. It also allows the Department to publish one or more codes and to revise or revoke any codes.

The Chairperson (Ms P Bradley): OK. The majority of respondents were in favour of clause 15. Among the supporting comments was a welcome for:

"the strengthening of existing regulatory protections for operators, consumers and specifically young people and those vulnerable to gambling harm".

Another comment was that it is:

"extremely important that a code of practice for the gambling industry be put on a mandatory, legislative footing."

It was also said that:

"it is important to introduce a requirement for operators to adopt minimum standards so there is consistency across industry and protections in place for people that are vulnerable to gambling harm."

There was support for:

"a mandatory code of practice being introduced to ensure that gambling is conducted in a fair and open way".

Other comments included that while there was no objection to industry codes of practice:

"however there is little detail provided about how compliance and enforcement of such would operate in practice."

and:

"If a mandatory code is put in place ... there should be careful consultation with the industry and it should be closely aligned to existing codes."

One operator pointed out that it currently operates under a voluntary code of practice and feels that that is "appropriate".

Do members have any comments?

Mr Frew: I am intrigued by where a code of conduct sits in legislation. We have primary legislation, secondary legislation and a third tier, which is a code of conduct. I noted what you said, Ciarán, about the proposed new article 108A(8), which says:

"A failure to comply with a provision of a code does not of itself make a person liable to criminal or civil proceedings."

I also note in the correspondence that you sent through with the new code, which you will consult on, I believe, that you are considering a credit card ban in the code of conduct. Should a credit card ban not be in the primary legislation rather than in the code of conduct, given what it says in the proposed new article 108A(8)?

You have a whole chapter on marketing in the code of conduct. I am thinking that a code of conduct can give you a wide spectrum of what you could do. Have you considered including in the code of conduct things that we talked about earlier today, such as the hiding of scratch cards from consumer eyesight, as is done with cigarettes? Have you the vires to do that within the code of conduct, given that this is not criminal law?

You talked about credit cards. I have gone off the idea of doing something about spending limits on debit cards, because I think that people will just go to the next bookie. The code of conduct could, however, touch on the sponsorship of and advertising in sporting arenas and on replica kits by gambling companies. Have you considered that? It came up from time to time in our deliberations.

Ms Campbell: For all the reasons that I mentioned previously not to put certain things in the Bill, no, that should not be included. It was not included in the legislation in England; rather, it was made a condition of the licence and included in the code of practice. We think that the code of practice is appropriate for that. Also, you heard from the Turf Guardians' Association and NIACTA that, in their voluntary code, they do not permit credit card transactions and have not done so. My understanding is that both of those governing bodies are very strict about their members adhering to their codes. We are relatively content that putting that in the code of practice will cover that aspect. The use of credit cards online is, of course, a different matter. We have no real control over that at the moment, although any online operator who advertises to consumers here must have a Gambling Commission licence and must therefore comply with Gambling Commission rules.

On your point about marketing, what we can do around that is limited to land-based gambling establishments. Ciarán will talk more about that.

We have been listening in on the matter of hiding scratch cards — as they say, "We are always listening" — and we sought legal advice on that point. We did not think that we would have the power

to make any provision on the product placement of scratch cards. There is, however, provision in section 12 of the National Lottery etc. Act 1993 for imposing restrictions on the circumstances or manner in which tickets are sold. We may be able to have some discussions with England about that. In the past, the Minister has written to her counterpoint in DCMS about advertising and sponsorship. Advertising is largely a reserved matter, and we are therefore reliant on Westminster to do something about that. The Minister raised the issue of sports sponsorship and all of the issues that you mentioned about sports shirts and things such as that. We await the outcome of the review of the 2005 Gambling Act. A White Paper was expected in December, but it was delayed because of a change in Minister. We have an undertaking from the DCMS Minister that, when the White Paper is available, he will meet our Minister to air those issues. The product placement of scratch cards, sponsorship and advertising are some of the issues that our Minister will raise.

You are quite right that there is a limit on debit cards. As the turf guardians said, they started accepting debit cards during lockdown only because of the whole thing about not using cash. Had a prohibition been in the 1985 Order, bookmakers would not have been able to trade until we amended it via primary legislation.

Those are all the points that I want to make. Ciarán will provide the detail on what is in the code of practice, if that is OK.

Mr Mee: As Martina said, advertising is primarily a reserved matter, so much of the section on marketing is about trying to reinforce that and to get the industry to focus on the advertising codes of practice, which are administered by the Advertising Standards Authority. There is also the Committee of Advertising Practice, so there are a lot of links to that. Also, re marketing to children and young people, there are special provisions with respect to children and young people in the 1985 Order — articles 50 to 52 — around gambling and gaming machines.

I do not know whether you want me to run through quickly the main areas that the code of practice covers, if that might help. Was there another question that we missed, Paul?

Mr Frew: Not from me, no. That is fine. It might be good for the Committee to hear a quick run-through of the code of conduct.

The Chairperson (Ms P Bradley): It probably would be good for the Committee to hear that, if you could do it pretty quickly. Ciara and Mark are waiting to come in, but do you want to do that first?

Mr Mee: I will give you the broad areas that it covers. I am working off the contents page. There is a description of its general application — how it applies. It covers gambling securities and credit, which, basically, prohibits accepting bets on credit, free bets and all of that. Automated teller machines and reverse withdrawals are prohibited. ATMs are not to be in gambling premises, and the practice of reverse withdrawals, which delays someone taking out their winnings, is prohibited. There are also sections on the protection of children and young people; marketing, as Paul said; customer care and problem gambling; and, finally, gaming machines.

Ms Campbell: We are happy to brief you on the code of practice. I appreciate that you have just received it, so we are happy to come back to talk to you about that, if you would like us to and if your schedule permits.

The Chairperson (Ms P Bradley): Yes. We are meeting to discuss the Bill further on Tuesday, so that might be beneficial for all members.

Ms Ferguson: My query is about the code of conduct, Ciarán, particularly customer care, spending and affordability checks, which is on pages 23 and 24, but I am happy to wait until Tuesday. I want further detail on how it was set, and, with regard to affordability checks and so on, are those done currently and how? How is it enforced? I am interested to hear further information on that.

The Chairperson (Ms P Bradley): Thank you, Ciara. Ciarán, do you want to respond?

Mr Mee: Yes, I will respond on how it is being enforced, because that question comes up a lot, and it might be helpful to say something about that. The Bill says that the code of practice is:

"admissible ... in criminal or civil proceedings"

and

"must be taken into account by a court or tribunal in any case in which it appears ... to be relevant".

Our thinking on the code of practice — I think that the Minister has said this — is that it can become a condition of the licence. We feel that the very first line of defence in terms of public protection is not necessarily a criminal sanction; it is the removal of the licence. If you look at the 1985 Order, you will see that licensing authorities such as the courts are required to consider the fitness of a person or organisation to hold a licence. That includes their character, reputation or standing, plus they may take into account any other circumstances that appear to be relevant. We would like that to be something that the licensing authorities consider in determining the fitness of a person to hold a licence, and they have powers to refuse to grant the licence, refuse to renew the licence or to revoke a licence. In essence, there would be, as the Minister indicated, a requirement to comply with the code to maintain your licence to operate.

The Chairperson (Ms P Bradley): All right. Thanks, Ciarán.

Mr Durkan: Thanks, Ciarán and Martina. This maybe could have waited until Tuesday. We should definitely take up the offer of a briefing on the code of practice. Martina mentioned the National Lottery etc. Act 1993. Did I pick you up wrongly, Martina? You said that there might be scope for us to do something in the code of practice on the display of scratch cards. A couple of members raised that this morning, and you will have heard me raise that previously. Earlier — I think that it was on the last clause — Kellie asked a question, which I heard, but I then got distracted and missed the answer. It was about whether the levy is applicable to shops that sell scratch cards or have lottery machines. Likewise, is the code of practice issued to those types of establishments or premises as well?

Ms Campbell: No. The code of practice will be issued only to premises that are licensed by us. That does not include the National Lottery, so it will not include shops. You have reminded me that you raised this during one of the evidence sessions, which prompted us to get legal advice. Section 12 of the National Lottery etc. Act 1993 makes some provision, but Westminster would have to make the regulations. As I said, the Minister has already raised the issue of advertising. She is very concerned about that and about sponsorship, so she will want to raise this again when the White Paper is published and when we see what Westminster will do, if anything, on advertising. The rumour is that Westminster will ban sponsorship.

I will go back to the National Lottery, which you asked about. Certainly, if that is the view of the Committee, the Minister could make representations to DCMS to ask it to do something on that. Whether it will do so is a different matter.

Mr Durkan: Would we need to put anything in the Bill as opposed to the code of practice? If it is in the code of practice, it does not —

Ms Campbell: We could not put anything in the Bill about National Lottery products because that is a reserved matter. It is out of the scope of the Bill.

Mr Mee: The code of practice is designed to work within the framework and powers of the existing 1985 Order, which is around betting, gaming and amusements, and the licensing aspects of those. It is to work in conjunction with that system.

Mr Durkan: The Bill states:

"In this Article" —

Mr Mee: That is the thing: it does not cover the National Lottery.

Mr Durkan:

"In this Article 'gambling' means gaming, betting or participating in a lottery."

Mr Mee: Yes, and the code of practice will cover those activities that are licensed under the 1985 Order.

Ms Campbell: Yes. It relates to a lottery within the meaning in the 1985 Order, Mark, not the National Lottery. It is in the interpretation: "lottery" excludes the National Lottery. The code of practice will apply only to products that are licensed under the 1985 Order.

Mr Durkan: OK. Therefore, in short, we have no power to do anything on that.

Mr Mee: We have no vires. Yes.

Mr Durkan: That is disappointing. OK. Thanks for that.

Mr Mee: Understood.

The Chairperson (Ms P Bradley): OK, thank you. Do members want to ask anything further while Martina and Ciarán are here? No? OK.

Thank you both very much for your time today. We look forward to seeing you on Tuesday, all being well. Thank you.

Ms Campbell: You are welcome. Thank you.

Mr Mee: Thank you.

Ms Campbell: Do you want us to hang about for your deliberations?

The Chairperson (Ms P Bradley): We should be OK, Martina. You are OK to go. I think that we are all right.

Ms Campbell: All right. Grand. Thank you. Bye.

Mr Mee: Thank you.

The Chairperson (Ms P Bradley): Bye.