



DISCUSSION PAPER

GAMBLING AND THE WORKPLACE: THE ISSUE, ITS IMPACTS AND ACTIONS FOR EMPLOYERS

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May 2014

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FOREWORD



Recent developments in digital technology have changed the way people gamble.

Online gambling accessed via smart phones and tablets means people can access gambling round the clock from the palm of their hand.

This increase in the availability and accessibility of online gambling also means gambling in the workplace and during working hours is more possible than ever before, making businesses more vulnerable to the issues arising from problem gambling.

The Victorian Responsible Gambling Foundation's primary goal is to prevent, reduce and minimise gambling-related harm.

Established by the Victorian government in 2012, the foundation takes a whole of community approach to addressing problem gambling and fostering a culture of responsible gambling in Victoria.

We are encouraging Victorian employers to be aware of emerging trends and technology related to gambling and how this could affect their employees.

The aim of this paper is to broaden awareness of gambling issues and provide insight to help employers understand the impacts gambling can have on the workplace and explore their role preventing problem gambling and promoting responsible gambling.

Gambling does not automatically result in negative impacts on workplaces. Workers may participate in social gambling activities like footy tipping without developing a problem or affecting the workplace.

However, when gambling occurs more frequently and a worker develops a problem with gambling, the workplace can be negatively affected. Impacts may include reduced workplace productivity and a change in workplace culture as well as affecting the the health and well-being of employees.

The foundation recognises that gambling is one of the many complex human resource issues facing employers and is committed to supporting and assisting employers to effectively address this issue.

As outlined in this paper, the foundation recommends a number of steps for employers to take to create healthier and safer workplaces and to promote employee wellbeing.

To assist employers, we have developed a range of tools for workplaces to address gambling issues.

Having personally witnessed the devastation that problem gambling creates, managing workplace gambling is not just about managing workplace risks, it's about adding another protective layer over your most valuable resource... people.

A stylized, handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Serge Sardo
CEO, Victorian Responsible Gambling Foundation

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EXECUTIVE SUMMARY

GAMBLING AND THE WORKPLACE: THE ISSUE, ITS IMPACTS AND ACTIONS FOR EMPLOYERS

New developments in digital technology have resulted in changes to how and where we gamble. Smart phones and tablets allow punters to place bets 24 hours a day, seven days a week from anywhere – at home, ‘on the go’ and even from work. These new and unprecedented levels of access to gambling have implications for Victorian workplaces.

Gambling during working hours, as well as before and after work, can negatively affect workplaces and their employees.

Workplace productivity, morale and company reputation are all likely to be affected if employees are engaged in excessive gambling. Employees themselves, their work colleagues and those near to them may suffer harm including psychological and financial distress.

This paper looks at the issues around gambling and workplaces, and suggests ways for employers to address the risks associated with problem gambling behaviour.

The paper gives an overview of what we know about gambling and problem gambling in the workplace, and examines why and how gambling can be viewed as a health and safety issue.

Gambling in the workplace occurs across a range of industries, including banking and finance, retail, building, manufacturing and transport.

We recommend employers should assume gambling occurs in their workplace and adopt straightforward measures to prevent any potential negative impacts.

The foundation recommends employers carefully assess the risks posed by gambling and take steps to reduce the potential impacts. This paper provides a guide to conducting a risk assessment in **Section 2**.

The foundation also recommends employers develop a workplace policy on gambling that is specific to their particular industry and/or working environment, taking into consideration workplace culture.

While in many instances gambling is a harmless recreational activity, gambling that is out of control can have a range of negative impacts.

An employee who has a problem with gambling or an employee who has a family member with a gambling problem may be affected in a number of ways.

This might include fatigue and anxiety at work or they may be increasingly absent due to days off and extended breaks used

to gamble. These impacts can lead to reduced productivity and quality of work.

Every employer in Victoria has a duty of care under the *Occupational Health and Safety Act* to provide and maintain a working environment that is safe and without risks to health.

In the context of gambling, the psychological harm that can result from problem gambling represents a health risk to employees. This risk can create an obligation for employers in relation to gambling in the workplace.

Preventative measures could include the development of a workplace policy on gambling and providing education and information on responsible gambling to employees.

Raising awareness about the signs of problem gambling can help identify potential issues among employees and encourage a safe and healthy workplace.

Employers can also educate employees about the risks of gambling and promote the available support services for people experiencing problems with gambling.

A workplace policy on gambling could be similar to policies on drugs and alcohol.

The foundation recognises that gambling is one of the many complex human resources issues facing employers. This paper provides practical guidance about the positive actions employers can take to create healthier and safer work environments for their employees.

This paper contains three sections:

Section 1 examines gambling in the workplace, focusing on the prevalence of gambling in the workplace, the type of industries affected, and the manner by which employees either gamble during work hours or on personal time. This section also explores the impacts of gambling, including on the workplace, employees and colleagues, as well as significant others. The information in this section is based on a review of the literature within the field of gambling generally, and more specifically on gambling in the workplace. Statistics are sourced from peer reviewed articles and government reports.

Section 2 examines gambling from a health and safety perspective, explaining the duty employers have towards their employees to provide a safe and healthy work environment. This duty is examined through an investigation of occupational health and safety laws in Victoria, followed by an exploration of the likely place these obligations have in relation to gambling. This section was written by Joel Zyngier, a Senior Associate at Holding Redlich and accredited specialist in workplace relations.

Section 3 of this paper proposes actions for employers to take to promote responsible gambling and manage potential workplace

impacts resulting from gambling. To support this, the foundation sought comment from a number of employers in Victoria to gauge the extent of employer awareness about gambling as a workplace issue and what measures, if any, employers currently have in place in relation to gambling.

MAJOR FINDINGS

- People with gambling problems may be employed in any occupation across a range of different industries
- Gambling may be occurring in workplaces during working hours and using an employer's equipment such as a computer, tablet or mobile phone
- An employer is entitled to regulate an employee's use of devices provided by them for work, both in and away from the workplace, if there is a sufficient connection with the employee's work
- Given that online gambling may go unnoticed by employers and fellow colleagues, employers cannot be confident that gambling does not occur in their workplace
- Employers have a legal obligation to provide a safe and healthy work environment
- Gambling can have negative impacts for a workplace that may create an unhealthy work environment
- To the extent gambling is a risk to health and safety, employers may have an obligation to take actions to address risks associated with gambling
- Many employers are not currently addressing gambling and its potential impacts on workplaces and employee health, safety and wellbeing.

WHAT EMPLOYERS NEED TO KNOW

Many employers are not currently aware of the risks that some forms of gambling behaviour can pose to their workplace.

When asked about gambling as an issue, employers are interested in responding but lack information and support to do so.

The potential for gambling to cause harm to employees and their workplace means that employers should raise awareness about the possible negative impacts of gambling.

The foundation recommends the following actions:

- Employers should assess their workplace for possible gambling risks
- Employers may choose to adopt a workplace policy on gambling, similar to policies that exist for other risky activities (such as alcohol)
- Employers should consider ensuring that employees do not gamble using resources provided by the employer (such as a work computer or phone)
- Any workplace policy on gambling should be clear and available to employees
- An employer should make clear to employees that they will not be discriminated against because they gamble
- Employers should provide information and appropriate education to employees about how to gamble responsibly
- Employers should provide employees with information and resources about gambling, including signs to look out for if someone has a problem gambling problem and details of employee assistance programs,
- Employees should be made aware of the available support services if they or someone they care about is experiencing problems with gambling.

GAMBLING IN THE WORKPLACE

Gambling is a common recreational activity that can be undertaken in a range of environments, including at work, during working hours and during breaks.

This section introduces the topic of gambling in the workplace and provides a summary of relevant research. It begins with general commentary on the changing nature of gambling in the twenty first century and the implications of this in terms of the accessibility of gambling activities at work.

This is followed by an overview of research on the extent to which gambling occurs in workplaces, including the limited pool of research investigating gambling vulnerabilities in particular industries. Finally, it concludes with the impacts that workplace gambling can have on employers and their employees.

THE GAMBLING ENVIRONMENT

Gambling is available to Victorians in a range of environments from land-based pubs and racetracks to the online world of virtual casinos and sports betting.

A 2009 survey of 15,000 Victorian adults found that 73 per cent had participated in gambling activities within the last 12 months (Department of Justice, 2009). Based on the 2011 census, this would equate to 3.3 million Victorians (Australian Bureau of Statistics, 2011).

Many different gambling forms are available including scratch tickets, electronic gaming machines, race betting and casino games. The most popular gambling activities in Victoria are the lottery, followed by raffles and sweeps, electronic gaming machines (the pokies), horse and dog racing, and scratch tickets (Department of Justice, 2009).

However, it should be noted that these results are from 2009, before the recent increase in sports betting advertising and online gambling opportunities.

Box 1: Preferred gambling activities in Victoria 2009

The following percentages represent how many Victorian adults engaged in a particular gambling activity:

- Lotto: 47.5 per cent
- Raffles and sweeps: 42.8 per cent
- Pokie machines: 21.5 per cent
- Horse and dog racing: 16.4 per cent
- Scratch tickets: 15.3 per cent.

(Department of Justice, 2009)

CHANGES IN THE GAMBLING ENVIRONMENT

New developments in digital technology have resulted in changes to how and where we gamble.

The expansion of the online gambling market has seen a shift away from venue based gaming environments, for example, casinos, pubs and TABs, and an expansion into the home and office (Griffiths et al, 2005).

Online gambling companies have quickly adapted and expanded their delivery platforms in response to recent developments in digital media. Gambling products have adopted new technologies such as smart phones and interactive television, soon after these technologies are developed (Phillips et al, 2010).

This shift in mediums used for gambling has resulted in increased access to gambling activities. Land-based gambling in clubs, hotels and casinos have virtual counterparts via online gambling.

Betting at TAB outlets has been supplemented by telephone betting as well as placing bets online via smart phones – which effectively place a TAB outlet or bookmaker in the palm of your hand.

This increased accessibility to gambling activities, now available ‘at our fingertips’ through online applications, has lead to additional opportunities to gamble, including the ability to gamble while commuting to work, during working hours, and after work.

Gambling has become simultaneously more accessible and more discrete.

Previously, gambling during working hours required leaving the workplace to visit pokies venues or casinos. Now, due to online gambling sites and applications, gambling during working hours simply requires access to the internet.

Using the internet as a substitute for land-based gambling has been increasing since the mid 1990s. The advent of the smart phone in the mid 2000s followed by the introduction of the tablet in the last five years, has made the internet a normal part of most people’s everyday life.

After the home, the workplace is the second most popular place Australians access the internet (Australian Bureau of Statistics, 2014).

In a study involving a nationally representative telephone survey of 15,006 adults conducted in 2011, Gainsbury et al found 9.5 per cent of gamblers accessed online gambling using a mobile or smart phone and 2.5 per cent used a tablet.

While results from a follow up study indicated the majority of online gamblers (87.1 per cent) used a computer (Gainsbury et al, 2013), the number of people gambling on smart phones or tablets is likely to increase.

There are currently approximately one billion smart phones in the world, and this is expected to increase to six billion by 2015 (Social Gambling White Paper, 2012).

In the context of this paper, it is assumed employees take their mobile phones to work. Therefore, while employees may or may not have access to the internet on computers at work, they may still have access to the internet via personal or work related smart phones or other electronic devices.

GAMBLING AND THE WORKPLACE

In addition to being a common recreational activity, gambling can occur within or in connection with workplaces. Gambling can be a formally organised activity at work such as office pools and sweeps in connection with the Melbourne Cup or tipping competitions during the Australian Football League season.

Alternatively, gambling may occur as an informal individual activity during working hours on personal or employer provided devices or computers.

For example, gamblers may use personal smart phones to access online betting applications, or work computers to participate in interactive gambling activities like online poker and casino games.

As internet gambling is usually a solitary activity, gambling may occur without the knowledge of employers or colleagues in the workplace (Griffiths, 2003).

In addition to office sweepstakes and internet gambling, Griffiths identifies lottery syndicates, telephone betting, spread betting (where bets are placed over the phone or online in relation to ongoing events) and card schools (where employees may get together to play card games during breaks or downtime) as additional types of gambling found in the workplace (Griffiths, 2009).

Finally, gambling can occur within and around the working day, for example a lunchtime trip to a pub with electronic gaming machines.

In some of the examples above, gambling in the workplace may be unremarkable and even perceived as beneficial where gambling is a shared recreational activity that builds team interactions.

However, whether gambling is explicitly sanctioned or viewed as part of workplace culture, it is worthwhile for employers to be aware of the risks that surround gambling.

EXTENT OF GAMBLING IN THE WORKPLACE

Despite the potential for gambling, and particularly online gambling, to affect workplaces, very little research has investigated gambling in the workplace.

The clear gap in research means there is little definitive evidence about how much gambling actually occurs within workplaces generally or how gambling impacts on the working environment.

Some studies have examined gambling in the workplace in specific contexts providing indicative observations. In the absence of stronger findings, these studies can still provide some initial insights.

Land based gambling and workers in the ACT building industry

In a survey of 254 workers from nine construction and maintenance sites in the Australian Capital Territory, 11.5 per cent of participants self-reported that they thought they had developed a gambling problem since starting work in the building industry (Banwell et al, 2006).

Internet gamblers in North America

In a survey of 1920 internet gamblers in North America recruited through gambling websites, Wood et al found the computer used for online gambling was located in the home for 86.6 per cent of participants, and at work for 4.3 per cent of those surveyed. A total of 16.4 per cent of the participants indicated they gamble from the workplace either once in a while (13.4 per cent) or often (2.9 per cent) (Wood et al, 2007).

Pokie machine players in the Norwegian transport industry

In a survey of 1094 selected transport industry workers, 21.2 per cent reported being in the vicinity of a gambling machine during working hours, and 6.8 per cent reported having gambled during working hours.

Revheim et al found 3.2 per cent of the transport company employees surveyed were problem gamblers (2009) in comparison to 0.7 per cent of the general Norwegian population (Øren et al, 2007 in Revheim et al, 2009).

Box 2: The limits of research on gambling in the workplace

To date there are few studies that investigate the prevalence of gambling in the workplace, including online gambling.

The lack of workplace specific studies on gambling represents a significant gap in the available research and limits the conclusions that can be made from a review of the literature.

However, the studies that do give an indication of what employers should be aware of, supports the development of a precautionary workplace policy on gambling.

The studies that have examined the prevalence of gambling in specific workplaces rely on surveys of employee attitudes towards gambling, accessibility of gambling activities and availability to gamble while at work. There are some significant limitations to this approach.

- (1) Results from surveys rely on self-reporting by participants. This is not always reliable as participants' memories are often inaccurate and because they may not feel inclined to answer truthfully. This can result in both under reporting or over-reporting of gambling.
- (2) The results obtained do not use a random sample and therefore cannot be assumed to be representative of the workplace as a whole as specific groups of individuals have been approached to participate.
- (3) Most studies have investigated only a small number of workplaces in a specific industry. This means that results cannot be extrapolated to other workplaces or the workforce as a whole.

Given these limitations, it can be assumed many workplaces have some vulnerability to gambling problems. Workplaces that more closely resemble those identified in these studies may suggest the risk is higher (eg shift workers, gaming venues) and more vigilance is required on the part of employers.

PROBLEM GAMBLING IN THE WORKPLACE

Gambling in the workplace may be an issue for employers for a number of reasons, particularly if gambling occurs in a risky or problematic way.

Risky gambling is often a precursor to problem gambling and problem gambling leads to a multitude of negative outcomes for the person involved as well as those around them.

Prevention or early intervention in problem gambling can serve to protect the wellbeing of employees and the workplace in general.

Problem gambling is characterised by challenges in limiting money and time spent on gambling, leading to adverse consequences for the gambler, significant others and the community (Neal, 2005).

In Victoria, 0.7 per cent of adults or approximately 30 thousand people are problem gamblers and 2.4 per cent of adults or approximately 100 thousand people are at risk gamblers (Department of Justice, 2009). While this may seem a comparatively small number, it could equate to almost one in every 100 employees having a problem with gambling¹.

Problem gambling has widespread effects, affecting not only the individual with gambling problems, but also their family members, friends and co-workers.

Problem gambling is often associated with the development of other problems in a person's life such as mental health issues, alcohol or drug abuse, relationship problems or financial difficulties. (Miller, 2014). These co-occurring problems also have the capacity to affect the people around the individual struggling with gambling problems.

It is estimated that for each person with a gambling problem, approximately five to ten significant others in their lives are affected (Productivity Commission 1999). This equates to more than one million Victorians or almost 10 in every 100 employees who are affected by someone with a problem with gambling².

Workers with gambling problems may be professionals, blue collar workers, or even military personnel (Hawley et al, 2007). They are not confined to particular industries, occupations or demographics such as education and income.

Instead, they may be employed in many roles including managers, bookkeepers, accountants, teachers and tradespeople (Warfield, 2007 and 2010).

Although people with gambling problems may work in a number of different occupations, there is some evidence of increased risks in particular employment sectors. For example, shift workers may be more vulnerable to developing gambling problems (Hing et al 2009; Revheim et al, 2009).

This can be explained by the hours of shift workers resulting in differences in their work-life patterns from those employed during weekday business hours (Hing et al, 2009; Revheim et al, 2009).

These workers may gamble to fill in the time between shifts (Hing et al, 2009; Revheim et al, 2009), while waiting for others to finish work, or they may lack alternative recreational opportunities due to working night shifts (Hing et al, 2009).

In particular, employees in gaming venues are a category of shift workers with higher rates of gambling participation and problem gambling (Hing et al, 2009).

In a survey of 533 gaming venue employees in Victoria, Hing et al found 13.7 per cent of participants were moderate risk gamblers and 5.6 per cent were problem gamblers (2009) compared to 2.36 per cent of Victorian adults who are moderate risk gamblers and 0.7 per cent who are problem gamblers (Department of Justice, 2009).

Hing et al links these higher rates of gambling prevalence and problem gambling in gaming venue staff to increased access to gambling activities for gaming venue employees (Hing et al, 2009).

However, awareness of gambling activities and access to them is not unique to gaming venue employees. In a study of problem gambling among employees in the transport industry, Revheim et al found accessibility coupled with spare time during working hours lead to increased opportunities to gamble (Revheim et al, 2009).

Revheim et al surveyed 1094 employees in Norway working for a taxi service, a bus operator, and a delivery service, finding that workers in the Norwegian transport sector had time to gamble during shifts (in between fares for instance) and were regularly in the vicinity of pokie machines during shifts, at convenience stores and gas stations (Revheim et al, 2009).

¹ This figure is an estimation. It was determined by examining the number of problem and at risk gamblers (Department of Justice, 2009) against the approximate number of employed adults in Victoria

² This figure is an estimation. It was determined by examining the number of significant others a problem gambler may affect (Productivity Commission, 1999) against the approximate number of employed adults in Victoria.

IMPACTS OF GAMBLING ON THE WORKPLACE

Industries and businesses may be affected in a number of different ways by gambling in the workplace.

The severity of impacts may depend on whether employees are gambling during work hours or outside of work, whether they have gambling problems and whether they have access to company finances.

Gambling that is frequent and problematic may affect a workplace in a variety of ways, including decreased overall productivity due to lost time from work, decreased effectiveness of individual employees and co-workers, negative impacts on morale and workplace culture, fraud and theft (Nower, 2003; Lesieur, 1998).

In a review of literature on the impacts of gambling, Lesieur (1998) found that 69-76 per cent of problem gamblers were often late to work or absent in order to gamble. Tardiness and absenteeism in the workplace have obvious negative impacts on employee productivity (Lesieur, 1998).

In a 1996 American study of a random sample of 1,000 adults, Thompson et al found average career losses per gambler was nearly \$100,000 USD (Thompson et al, 1996).

In addition, the study found 60 per cent of problem gamblers surveyed reported missing at least seven hours of work per week to gamble (Thompson et al, 1996).

This study was conducted before the widespread use of the internet and the growth of the online gambling industry.

Workplace gambling may also result in financial consequences for an employer due to fraud and theft.

An employee who suffers from a gambling problem may 'misappropriate funds, request an advance on pay checks, borrow from colleagues, and misuse company resources' (Nower, 2003).

In a study examining 182 theft cases committed by clerks and decided by Local or District Courts in NSW between 1995 and 1999, Crofts (2003) found almost one in five of the cases examined were gambling-related.

In this study Crofts (2003) determined approximately 19.7 per cent of the cases involved employee thefts motivated by the need to finance gambling or to pay off gambling-related debts.

Similarly, in a study examining 181 gambling associated criminal cases in higher courts throughout Australia, Warfield found that in 60 per cent of cases, employees were responsible. The employees in these cases had stolen a total of more than \$30 million from their employers to fund their gambling (2010).

Warfield also examined 89 cases of fraud in Australia between 2001 and 2012 where over \$1 million was stolen by an employee and resulted in prison time. Gambling addiction was cited as the most predominant motivating factor in 46 out of the 89 cases representing a total of almost \$165 million of stolen funds. Over a third of these cases were in Victoria. (Warfield, 2012)

It is important to note that problem gambling does not necessarily equate to criminal consequences for the workplace. Not every employee with a gambling problem could or would, for example, access company finances or assets for gambling related activities.

However, a workplace may experience a number of impacts from problem gambling that may affect company finances but are not illegal including reduced productivity, low quality of work and absenteeism.

The Australian Productivity Commission made some significant findings about the myriad of impacts gambling can have on employee productivity. The commission noted 19 per cent of gamblers with problems reported losing time from work or study and 25 per cent reported that gambling negatively affected their work (Productivity Commission, 2010).

Along the same vein, a South Australian study from 2005 noted a high turnover rate in jobs among problem gamblers, with 16 per cent changing jobs in a year and 15 per cent losing their jobs due to gambling related issues (South Australian Department for Families and Communities, 2006).

Box 3: Workplace impacts of risky or problem gambling

- Reduced productivity by gambling employees and colleagues who cover for those employees
- Ineffectiveness caused by disruption to work patterns and attention
- Tiredness and mistakes resulting from fatigue
- Reduced quality of work and resulting customer complaints or dissatisfaction
- Dishonesty
- Low self-esteem and associated conditions such as depression and anxiety
- Absenteeism (days off, extended lunch hours and breaks)
- Disruptions to customer service affecting a company's reputation
- Loss of skill, knowledge and capacity due to job turnover.

CONCLUSION

Participation in gambling occurs widely in the community across a number of different industries. Engagement in gambling does not, however, automatically translate to negative consequences.

Many Australians who participate in gambling for recreational purposes do not experience problems. Nonetheless, employers should be aware that when people do experience problems with gambling, the workplace can be negatively affected.

Some types of gambling are associated with greater risks of problems than others, including pokies, table games offered at casinos, sports betting and wagering on horses. Forms of gambling associated with less risk include buying lotto tickets and playing bingo³.

Gambling problems can affect people in many occupations from professional workers such as accountants, solicitors and nurses, through to skilled tradesmen, plant operators and hospitality workers (Warfield, 2007; Warfield, 2010).

The impacts of gambling can include reduced productivity, absenteeism, poor morale, fraud and even theft. In addition, workplaces may be similarly affected where an employee has a family member with a gambling problem.

Based on this evidence, employers have an interest in preventing problems from developing. Being a proactive employer will help maintain employee productivity, customer satisfaction, and a healthy workplace culture.

As problems with gambling can also affect well-being and health in the workplace, it is important for employers be aware of their obligations to employees in relation to workplace gambling. This is explored in the following section of this paper.

³ Victorian Responsible Gambling Foundation analysis based on *A study of Gambling in Victoria*, Department of Justice, 2009.

SECTION 2:

GAMBLING IN THE WORKPLACE AS A HEALTH AND SAFETY ISSUE

Guest author: Joel Zyngier, Senior Associate, Holding Redlich

As gambling has the potential to negatively affect workplaces and their employees, it is important for employers to understand their obligations in relation to the risks posed by gambling. Section 2 discusses gambling within the legal occupational health and safety framework.

Building on Section 1, this section examines the role of employers in addressing workplace gambling. In particular, it explains the duty of care employers have to provide their employees with a safe and healthy working environment. Next, it examines the potential risks and hazards gambling may cause in the workplace.

Finally, it explores how employers can reduce the risks associated with gambling in the workplace, the obligation of employers to consult with employees, as well as the consequences faced by employers for a breach of occupational health and safety obligations.

HEALTH AND SAFETY IN VICTORIA

Every employer has a duty of care to their employees to provide and maintain a working environment that is safe and without risks to health.

In Victoria, this duty arises under the *Occupational Health and Safety Act 2004 (OH&S Act)*. The *OH&S Act* aims to protect the health and safety of employees and the public, and eliminate risks to health and safety in the workplace.

Obligations of employers

Employers have a number of duties under the *OH&S Act*. Principally, an employer must provide and maintain a working environment for employees that is safe and without risks to health so far as is reasonably practicable. 'Reasonably practicable' means employer actions must be possible and feasible.

An employer is not expected to do everything conceivable to prevent risks and hazards in the workplace. The duty is to provide a workplace that is without risks to health and safety as much as reasonably possible in light of what is known and foreseeable.

Employers owe this duty of care to all employees including independent contractors and any employees of the independent contractor. However, an employer only owes this duty to contractors in relation to matters over which the employer has control.

As part of their obligations, employers are required to monitor the health and safety of the workplace and to consult with employees about health and safety matters. This is part of acting in a *reasonably practicable* manner towards workplace health and safety.

Box 5: Employer's duties towards employees

Under the Occupational Health and Safety Act 2004, employers in Victoria have a duty of care towards their employees to:

- provide a safe and healthy work environment
- monitor health and safety conditions and
- consult with employees.

Obligations of employees

In addition to an employer's duty to provide a safe and healthy work environment, an employee also has a duty to take reasonable care for his or her own safety as well as the safety of others who may be affected by his or her actions in the workplace.

This means employees also have obligations under the *OH&S Act* and must ensure they follow health and safety rules set by their employer.

GAMBLING AND AN UNSAFE WORK ENVIRONMENT

As described in section 1 of this paper, gambling can lead to negative impacts for a workplace. Determining whether an employer is obliged to address gambling and its potential impacts involves an investigation of the following questions:

1. Does the risk of workplace gambling create an 'unsafe' working environment?
 - a. Are there opportunities to gamble?
 - b. Is there a risk or hazard?
2. Is it reasonably practicable to eliminate or reduce the risks of gambling in the workplace?
 - a. What is the likelihood of the risks occurring?
 - b. What are the possible consequences of gambling on the workplace?
 - c. Does the employer know how to reduce the risks of gambling?
 - d. What are the costs associated with reducing the risks of gambling in the workplace?

1. Do the risks of workplace gambling create an 'unsafe' working environment?

To answer this question, an employer must first undertake a hazard and risk assessment of the workplace to determine whether there are opportunities to gamble in the workplace and whether gambling constitutes a hazard or risk to employee health and safety.

The *OH&S Act* does not define or limit the kinds of health or safety hazards or risks it governs. Any type of harm is covered, including any physical or psychological deterioration of health. Therefore, if gambling leads to physical or psychological harm, it will result in a risk to health that requires employer action.

(a) Are there opportunities to gamble in the workplace?

As previously discussed in this paper, gambling can be a social or individual activity. Due to the increased accessibility to gambling activities online, employees may gamble in the workplace without the knowledge of their employer.

However, when determining whether gambling creates an 'unsafe' working environment, employers should establish whether opportunities to gamble exist in their workplace.

Employers should scan the working environment to identify opportunities to engage in gambling activities. These opportunities may include access to workplace electronic devices like computers, tablets, or smart phones.

(b) Does gambling create a risk or hazard in the workplace?

A gambling disorder is a behavioural addiction, recognised by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (5th edition). Harmful gambling in the workplace creates a range of problems including psychological damage to gamblers, as well as harm to family members and fellow colleagues.

The potential harm that can result from gambling may lead to health and safety risks in the workplace.

Gambling in the workplace, including using an employer's equipment to gamble, would appear to constitute a potential risk to health and safety in respect to the *OH&S Act*, and therefore imposes duties on employers and employees to respond.

Due to this duty of care, an employer would consequently be obliged to eliminate (or if not possible, reduce) the likelihood of problem or risky gambling at work or in connection with work, so far as is reasonably practicable.

A workplace in which an employer allowed gambling to occur without taking these steps could be considered (in this respect) an unsafe workplace.

The steps an employer may take in relation to preventing or reducing gambling opportunities on workplace electronic devices for example, may include the establishment of workplace practices on the use of work related computers and mobile phones.

2. Is it reasonably practicable to eliminate or reduce the risks of gambling in the workplace?

Once the employer has identified a hazard or risk they are obliged to consider to what extent it is reasonably practicable to eliminate the risk. If it is not possible to eliminate the risk, the employer is obliged to consider to what extent it is possible to reduce it.

The following analysis considers how this test might be applied in the case of gambling.

(a) What is the likelihood of the risk occurring?

The extent to which an employer must take steps to eliminate or reduce the risks associated with gambling depends on the likelihood of the risk occurring.

An employer is entitled to treat an unlikely risk with less serious consequences differently when compared to a likely risk with more serious consequences.

For example, it is likely most office-based employees will suffer paper cuts from time to time but given the non-serious outcome of such injuries, an employer would (in most cases) not be obliged to take significant (if any) steps to address the hazard.

On the other hand, it is unlikely an office-based employee would be exposed to fire but given the serious consequences which could result, an employer must take significant steps to eliminate the risks of fire in the workplace.

The degree or likelihood of the hazard or risk of problem gambling in an employer's working environment is likely to be increased if the employer's business relates to gambling or provides work tools which are able to be used for gambling.

Obvious examples include computers and personal electronic devices such as smart phones or tablets.

The working environment would in those instances, include anywhere and any time the devices are used. This is because 'workplace' is defined in the *OH&S Act* as being any place where an employee works.

Given the information highlighted in the first section of this paper, there appears to be significant likelihood that employees will engage in workplace gambling.

In particular, it is relevant that employees may be using tools provided by the employer to gamble including more risky types of gambling such as sports betting or online casino games.

For some employees, this type of gambling could lead to a deterioration in mental health as a result of suffering psychological harm. This means there is some likelihood of a risk to health and safety eventuating.

(b) What are the possible consequences of gambling on the workplace?

An employer must then consider the consequences of employees gambling while at work, during work hours or using its equipment.

From the information set out in this paper, it is apparent that the consequences could have health and safety implications, including implications for psychological health.

(c) Does the employer know how to reduce the risks of gambling?

Employers then need to consider their knowledge of available controls and explore what other options might be available to reduce or eliminate the risks of gambling in the workplace. An employer should consider the following controls to address the risks or hazards of workplace gambling:

- An effective policy regulating gambling at work or during working hours, even using private resources (this could be included in a code of conduct or general policy)
- An effective policy prohibiting gambling using the employer's resources at any time (including accessing gambling websites or placing bets using the employer's telephones and computers, or employer provided smart phones, tablets or laptops) or any location (including where the employer's resources are being used out of work hours and/or away from the workplace)
- An effective policy prohibiting the installation of gambling applications on employer provided smart phones or tablets
- An effective social media policy prohibiting engagement in gambling through social media platforms
- An effective policy outlining what, if any, types of gambling are permitted at the workplace (ie. office lotto syndicates, footy tipping competitions)
- Providing responsible gambling literature, as well as information about help services, available in common areas
- Consulting with employees about the risk or hazards of gambling.

(d) What are the costs associated with reducing the risk of gambling in the workplace?

After an employer determines whether it is possible to reduce or eliminate risks that may arise from gambling in the workplace through the application of specific control measures (listed above), an employer needs to determine the costs of these controls.

An employer should weigh the costs associated with reducing or eliminating the risk of gambling in the workplace with the occurrence and consequences of the risk of gambling.

Where the actions are low cost, for example providing free information and resources about gambling, there is a strong argument that the action should be taken. An employer should be very careful before deciding whether the cost of implementing a control outweighs the risk.

Consulting with employees about workplace gambling

An employer has a duty to consult with employees about health and safety. This duty requires an employer to, so far as is reasonably practicable, consult with its employees when identifying or assessing hazards or risks to health or safety, and when making decisions about the measures to be taken to control risks to health or safety. Consultation would therefore need to occur in relation to workplace gambling.

It is important to appreciate that consultation does not require agreement. However, matters raised by employees (or unions) during consultation about workplace gambling should be reasonably considered and responded to in a timely and appropriately detailed manner (having regard to the nature of the objection).

Consequences for an employer of not providing a safe working environment

Contravention of the employer's primary duty under the *OH&S Act* is a criminal offence, for which a court can impose convictions and significant financial penalties. WorkSafe can prosecute alleged contraventions in the Magistrates' Court of Victoria or the County Court of Victoria.

A body corporate can be fined over 1 million dollars for a contravention of the employer's primary duty while an individual can be fined up to 250 thousand dollars.

Convictions and penalties can also be imposed on directors and 'officers' of a body corporate if the contravention of the *OH&S Act* is attributable to such a person failing to take reasonable care to ensure the body corporate met its duty. An 'officer' is defined as a person whose decisions affect the whole or substantial part of a business or who has the capacity to significantly affect its financial standing.

CONCLUSION

An employer owes a duty of care to employees to provide a safe and healthy work environment. This duty obliges an employer to reduce as much as possible, any risk or hazards in the workplace that could cause physical or psychological harm to an employee.

When reducing risks in the workplace, an employer must take note that the workplace extends to anywhere their employees conduct work while using the employers' equipment including mobile phones, tablets and computers.

Employers are required to consult with employees in relation to occupational health and safety matters, and there are serious consequences if obligations are breached.

As problem gambling is a recognised behavioural disorder that can cause psychological harm, an employer is obliged under the *OH&S Act* to take notice and reduce risks involving gambling that may be present in the workplace.

In particular, an employer should be aware of the obligations that arise in relation to resources they provide, and have appropriate policies in relation to gambling, the use of work resources and social media. The following section explores actions employers can take in relation to gambling in more detail.

SECTION 3:

EMPLOYERS AND GAMBLING IN THE WORKPLACE

As demonstrated in section 1 of this paper, gambling occurs in the workplace across numerous industries. While many people gamble responsibly and without any problems, risky gambling and problem gambling can have a range of negative impacts on individuals and employers.

Section 2 suggested the existence of opportunities to gamble in the workplace may create occupational health and safety obligations for employers.

This section examines whether employers consider workplace gambling an issue, and if so, what measures they have, or would like to have, in place to achieve the best outcomes for their workplace and employees.

Divided into two parts, this section firstly looks at how employers currently view workplace gambling, including any measures they may have in place to manage it as an issue. Secondly, this section explores what further steps employers can take to protect themselves and their employees from the potential negative impacts of workplace gambling.

WHAT EMPLOYERS ARE DOING

To inform this paper and the development of information and resources, the foundation sought to engage with employers in Victoria. The foundation contacted 20 employers across the government, private and community sectors via telephone or email.

Employers were asked a series of questions to gauge their current views about gambling (see Box 6). They were asked whether they currently had in place workplace policies and practices in relation to gambling, and what information and resources would be valuable to them in addressing workplace gambling.

Of the employers contacted, the foundation received responses and information from five. Given this small number, the information collected can not be extrapolated to all employers, however, it does provide some valuable insights.

Generally, employers who engaged with the foundation had not considered gambling as a workplace issue and did not have measures in place to manage it. Employers expressed interest in receiving information and resources to help them meet obligations in relation to gambling.

Several employers suggested that information would be valuable if it could be embedded within a meaningful context for employees. For example, responsible gambling messaging to accompany footy tipping competitions or office sweeps.

Employers also expressed an interest in information for managers about use of work resources such as computers, smart phones and tablets for gambling, as well as resources to help identify signs of gambling problems and to provide appropriate support employees.

Box 6: Questions for employers

Employers who gave the foundation permission to include their responses in this discussion paper were asked the following questions:

- Is gambling an issue in the workplace?
- Are you aware of any cases or issues in relation to gambling in your workplace?
- Do you have any human resources policies relating to gambling in the workplace?
- Do you have any human resources policies in relation to other areas such as alcohol and drug use?
- Do you have measures in place to manage risks associated with gambling in the workplace?
- Do you have measures in place to deal with any employees self-identifying as experiencing issues with gambling either within or outside of the workplace?
- What resources would best assist you to implement policies and support around gambling within the workplace?

One category of employers who have explicitly considered gambling in a workplace context and taken steps to manage it is the gaming industry. As explained previously in this paper, Hing et al found gaming venue staff are more vulnerable than the general community to developing a problem with gambling.

Gaming venues have addressed their duty to provide a safe and healthy working environment through engagement with the Gambler's Help Venue Support Program, limiting staff access to gambling and the provision of support to staff indicating that they may be experiencing an issue.

In Victoria, gambling venues are required under the *Gambling Regulation Act 2003* to have a Responsible Gambling Code of Conduct outlining how their venue is operated (section 3.4.12(b) of the *Gambling Regulation Act*).

The codes are specific to each venue, and the staff and management of the venue are obliged to act inside those rules.

A code of conduct must address responsible gambling, product information, loyalty programs and pre-commitment options, which are pre-set limits on gambling spending (Ministerial Direction, Responsible Gambling Codes of Conduct).

Many gaming industry codes of conduct state that employees are not permitted to gamble at their place of work at any time or participate in any of the forms of gambling offered.

However, where employees are permitted to gamble outside of working hours, there are a number of conditions outlined in the code of conduct that employees must follow.

In addition, gaming operators are also committed to assisting any staff members who indicate they may be experiencing issues with gambling while respecting their privacy.

WHAT EMPLOYERS CAN DO

To ensure they are providing a safe and healthy work environment in relation to gambling, employers should adopt a three-pronged approach. Employers should seek to:

- educate their employees
- communicate with employees
- develop appropriate workplace policies
- online safety measures

EDUCATION

Employers can educate staff, including managers, on both problem and responsible gambling and the potential impacts of gambling on the workplace.

Education should focus on providing accurate and useful information to employees about responsible gambling, the risks of gambling, and promote the available support services for people experiencing problems with gambling.

Importantly, education for employees should also include providing information about the signs of problem gambling to assist people in self-identifying a problem or identifying a problem in a co-worker.

Educational materials could include brochures and posters, supported by communications via email, staff newsletter or intranet. Employers could also consider information sessions or presentations for staff.

Information and promotional materials are available free to employers from the foundation.

People experiencing problems with gambling, as well as their family and friends, can seek information, advice and support in a number of ways, including:

Phone support (available 24/7)

- Gamblers Help at 1800 858 858

Face to face counselling

- Gambler's Help locations across Victoria

Online support (available 24/7)

- www.gamblinghelponline.org.au

Self help

- www.gamblershelp.com.au or www.fightforyou.com.au

Workplace support

- Workplace employee assistance program

Employers should also highlight information on responsible gambling provided by:

Victorian Responsible Gambling Foundation

- www.responsiblegambling.vic.gov.au

Responsible Gambling Awareness Week

- www.rgaw.com.au

Furthermore, the foundation intends to continue consulting with employers to ensure appropriate and useful resources are developed and provided to assist them in this area.

Communication

Employers are responsible for providing a safe and healthy work environment. The provision of a productive and efficient workplace relies on good communication between employers and employees, as well as between employees themselves.

Employers should make their employees aware they are able to discuss any issues they may have with gambling with their management at any time.

Similarly, employers should seek to understand the warning signs to look for when identifying potential gambling problems in an employee in order to provide further assistance.

Box 7: Warning signs of a gambling problem

Employers should look for signs relating to:

Time

- arriving late to work or leaving work early
- extended lunch hours
- unexplained disappearances / increased absenteeism
- predictable pattern of absenteeism

Productivity

- irritability, poor concentration
- changes in productivity / incomplete work
- misuse / excessive use of work telephone or internet

Finances

- borrowing money from colleagues
- employers approached for salary advances
- constantly volunteering for overtime / additional shifts

Criminal activity

- stealing money / goods from work colleagues / company
- fraudulent expense claims
- embezzlement

It is important for employers in Victoria to be aware of the *Equal Opportunity Act 2010* which prohibits discrimination based on attributes such as race, ethnic origin, age, gender, and religion.

Employers must therefore ensure they do not discriminate against their employees when approaching issues related to gambling. For example, although research suggests a higher proportion of people with gambling problems are male, treating male employees differently due to their gender could be a breach of the *Equal Opportunity Act*.

This is also important for employers to consider when communicating with staff who may have a potential gambling problem. It is important employers do not discriminate against that employee on the basis of their gambling problem.

Employers cannot terminate employment on the basis of a gambling problem and they cannot treat employees differently by reducing workloads or restricting an employee's access and responsibilities. When addressing problem gambling, it is essential employers avoid discrimination and seek to treat every employee on a fair and equal basis.

Policy

The aim of this paper is to provide employers with a plan of action outlining what they can do in their workplace to address gambling.

Similar to taking a position on alcohol, employers can expect to benefit from implementing a policy on gambling. Responsible drinking messages are regularly provided by employers, especially during the holiday season.

The adoption of a responsible gambling policy both in and outside the workplace will not only help the community tackle the issue of problem gambling but will help employers in achieving a safer and healthier work environment for staff members.

This, in turn, should help prevent negative impacts on workplace productivity or company reputation.

For further information, please see the foundation's *Guide to developing a workplace policy on gambling* which includes tips on developing a workplace policy, a checklist of essential criteria, and a template policy on gambling in the workplace.

Online safety

Employers can consider implementing online safety measures to protect themselves and their employees from accessing gambling websites and applications.

Popular filters include Gamblock and Betfilter, or you can install internet monitoring software. Reputable gambling sites also offer self-exclusion programs.

Some websites that may be useful in implementing online safety include:

- www.gamblock.com
- www.betfilter.com
- www.cyberpatrol.com
- www.cybersitter.com
- www.netnanny.com

CONCLUSION

Employers in Victoria have limited awareness about the potential impacts gambling could have on their workplace and employees and generally do not have measures in place to manage these issues.

There are a number of actions an employer can take to ensure gambling does not lead to negative impacts in their workplace.

These include educating staff about gambling and its risks, communicating responsible gambling messages, developing a workplace policy on gambling, and implementing online safety measures.

For the most part, these measures are unlikely to impose an onerous burden on employers. Yet, by taking these steps, employers can reduce the risk that gambling will negatively affect their workplace while creating a healthier and safer work environment.

CONCLUSION

This paper provides valuable information about gambling behaviour generally and gambling behaviour in the workplace, advising employers to raise their awareness about the risks gambling may pose for their workplace and employees.

Section 1 explored the impacts of gambling including reduced productivity, absenteeism, poor morale, fraud and even theft. In addition, workplaces may be similarly affected where an employee has a family member with a gambling problem.

Based on this evidence, employers have an interest in preventing problems from developing.

Being a proactive employer will help maintain employee productivity, customer satisfaction, and a healthy workplace culture.

Section 2 emphasises an employer's duty of care towards employees to provide a safe and healthy work environment. As problem gambling is a recognised behavioural disorder that can cause psychological harm, an employer is obliged under the *OH&S Act* to take notice and reduce risks involving gambling that may be present in the workplace.

As outlined in **Section 2**, when reducing risks in the workplace, an employer must take note that the workplace extends to anywhere their employees conduct work while using the employers' equipment including mobile phones, tablets and computers.

Based on the potential ways gambling can affect the workplace outlined in **Section 1** and an employer's responsibilities under the *OH&S Act* discussed in **Section 2**, **Section 3** recommends actions for employers regarding gambling in the workplace.

These actions for employers include educating staff about gambling and its risks, communicating responsible gambling messages and implementing a workplace policy on gambling.

It is also recommended that employers be aware of the obligations that arise in relation to resources they provide, and have appropriate policies in relation to gambling, the use of work resources and social media.

For larger employers, the evidence suggests developing a workplace policy on gambling may be worthwhile. A workplace policy on gambling will help satisfy an employer's duty of care in providing a safe and healthy working environment as well as supporting a healthier and safer workforce.

By addressing workplace gambling, employers will be benefitting the community, as employees with gambling problems affect family, friends, and colleagues around them.

The foundation is committed to fostering responsible gambling and encourages people to gamble in safer ways. All members of the community, including employers, can make an important contribution to providing a safer gambling environment..

The foundation's ***Guide to developing a workplace policy on gambling*** includes information to support the development of a workplace policy, a checklist of essential criteria, and a template policy on gambling in the workplace.

This paper, and the resources produced from it, should assist employers to address the risks associated with workplace gambling in an effective manner.

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May 2014



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Many ways to get support

If you or someone you care about is experiencing problems with gambling, help is available.

We understand that gambling affects people from all walks of life and in different ways, that's why we offer many ways to get support.

Find the support that's right for you.



Phone

Talk to someone

You can call Gambler's Help 24 hours a day, seven days a week for free, confidential information, advice and counselling.

Call **1800 858 858**



Peer support

Talk to people like you

We can help you find support from other people going through the same problems, either in a group setting or one on one.

Call **1800 858 858**



Face to face

Meet a counsellor

Gambler's Help offer face-to-face counselling either on a one-off basis or ongoing.

Call **1800 858 858**



Young people

Are you under 25?

Call our dedicated Gambler's Help Youthline for a confidential chat or for information about gambling.

Call **1800 262 376**



Financial counselling

Get help with your finances

Financial counsellors can give you confidential advice and help you sort out your financial problems.

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Online support

Get immediate help online

Email or chat live with a counsellor 24 hours a day, seven days a week.

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Family & friends

Concerned about a loved one?

If someone else's gambling is affecting you, we offer free, confidential information, advice and support.

Or you can attend counselling with your partner or family.

Call **1800 858 858**



Help yourself

Tools to help yourself

Self help tools can help you build confidence and work through your issues in your own time, at your own pace.

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