

# ASSISTING PROBLEM GAMBLERS THROUGH AMENDMENTS TO THE VOLUNTARY APPLICATION OF EXCLUSION ORDERS - CASINO INDUSTRY

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## Preamble

This discussion paper was prepared following my attendance at a seminar in September 1998, concerning the impact gambling was having on a Non English Speaking Background (N.E.S.B.) community in Sydney.

During the seminar it appeared that the questions from members of the audience, were being made with the view that casinos, or the counselling services, or the government agencies (depending on the presenter), could do more to assist the members of their community to cope with the negative impacts of gambling. Conversely, the presenters responded by explaining that there are limitations on what the various organisations can do for problem gamblers and that invariably the first stage of recovering from a gambling problem involves the issue of self awareness. That is, the patron must recognise their situation and take on some responsibility to initiate corrective behaviour. The angle of questioning continued, the audience did not appear convinced.

As the discussion continued, I was reminded that I had once been asked by a patron at a casino, what my views were in regard to, "*problem gambling within the Asian community?*" I replied with the view that ultimately the responsibility must come back to the individual to recognise they have a problem. The patron suggested that this was a "*typically western view.*"

With this comment and the seminar discussion in mind, I began to contemplate the following:

- 1) A re-think regarding **responsibility** appeared necessary to resolve the issue of problem gambling within N.E.S.B. communities.

At the seminar, determining who might be **responsible** became a issue of relativity. To provide a resolution, both the views of the presenters and the views of the audience should be viewed as valid.

- 2) Subsequently, organisations concerned with the detection and treatment of problem gambling within N.E.S.B. communities may need to further tailor their responses in order to gain acceptance and thus increase utilisation of treatment options.

- 3) Members of N.E.S.B. communities are frequently more familiar with a totalitarian or semi totalitarian society, where liberties may be somewhat restricted by western comparison, and where gambling may be outlawed to everyone but international visitors.

Such a background may not be congruent with an egalitarian Australian society where individuals have learned, rightly or wrongly, to integrate gambling as a more accepted part of every day life.

I also suspect that the emergence of Australia's neighbouring "economic tigers", may be to the detriment of problem gamblers in the Australian Asian community. The current "strive for success" attitude was not long ago a "strive for survival" in some societies. The universal symbol for success is the "\$\$\$". It is not difficult to complete the logic and see how gambling (which may not have been accessible back home), now becomes a legitimate means by which to "climb the golden mountain."

I submit that these elements of the casino patron's psyche and cultural background partially assist in understanding why approximately 50% to 70% of visitors to casinos in Perth, Melbourne, Sydney, and the Gold Coast, are from a N.E.S.B. background and, to some degree, why gamblers from these communities might be vulnerable to the impacts of problem gambling.

## 1. AIMS AND OBJECTIVES

This submission accepts the views that problem gamblers are generally reluctant to acknowledge their predicament, that the first person to accurately diagnose the problem is frequently a close relative or guardian, and that compared to problem drinking, problem gambling is relatively difficult to identify, (more so in communities where "losing face" is a significant issue). The steps below aim to overcome these barriers without adversely restricting the liberties of the individual.

The ideas presented are by no means complete. They are put forward with the knowledge that further discussion will identify broader considerations, that may not be addressed in this submission.

A number of issues raised will be specific to casino patrons from a N.E.S.B. The author believes that the volume of patronage (50-70%), some Australian casinos experience from these communities, raises specific issues resulting from this cultural diversity.

Having said this, the amendments set out below are generally applicable to all problem gamblers regardless of social or cultural background.

The paper suggests a number of amendments to the processes undertaken when a problem gambler submits a voluntary application to be excluded from a casino, and the processes followed when these persons re-enter a casino.

The amendments are suggested in order to make the voluntary exclusion option generally more proactive in assisting problem gamblers and their families. As well as being more attractive to problem gamblers from N.E.S.B. communities.

In preparing for this submission, the author has taken into consideration, legislation and procedures from New South Wales, Victoria, Queensland, and Western Australia, regarding the voluntary application for excluding patrons from casinos in these states.

It is hoped that the suggestions set out below will encourage the Casino Industry to work closer with counselling services in providing practical measures to assist problem gamblers, their families, and their communities, to manage more effectively the negative impact of gambling.

## **2. EXISTING PROCEDURES AND LEGISLATION**

### **2.1 Issuing Exclusion Orders when Applied for Voluntarily**

There appears to be no existing legislation concerning the voluntary application for exclusion orders in Western Australia.

The Casino Control Acts in both Victoria and NSW indicate those persons who may issue an exclusion order when applied for voluntarily:

*The Director (Director of the Casino Surveillance Division) or the casino operator may give a written order under this section to a person, on the person's voluntary application, prohibiting the person from entering or remaining in a casino.*

However, the Director in both states may delegate this function.

*The Director may delegate to a key official any of the Director's functions under this Act, other than this power of delegation.....  
(NSW Casino Control Act 1992).*

The authority to issue exclusion orders on behalf of the casino operators in the eastern states, has been granted to various casino personnel, (NSW). However, the vast majority of voluntary exclusion orders are issued by security personnel or similar.

Invariably a person is required to attend the casino in order to submit their exclusion application. At the casino the application may be processed in the same manner as other, more serious exclusions. The patron is confronted by an authoritative figure from the casino's security or gaming departments and, for the purpose of identification, a photograph will be taken.

## **2.2 Voluntary Excluded Persons Re-entering the Casino**

Primarily re-entries are identified by the casino's surveillance or security departments, who in turn advise the inspectorate.

The patron is approached by an Inspector, with security assistance, whilst on the gaming floor and escorted to the casino interview room, (Vic. & NSW). In Queensland the matter is dealt with on the gaming floor by the on-site Police or Inspector.

Currently, voluntary excluded persons who re-enter a casino are processed by the Inspector in the same manner as a re-entry who did not voluntarily requested their exclusion. This primarily involves the following:

- 1) Re-entries are photographed and provided with an interpreter if necessary.
- 2) If the patron re-enters for the first time, they are issued with a Warning Notice.

### *Vic & NSW*

- 3) With the exemption of (2) above, re-entries are generally:
  - a) Interviewed by a Government Inspector
  - b) Summoned and prosecuted
  - c) Dealt with at the discretion of the courts.

### *Queensland*

- 3) With the exemption of (2) above, re-entries are generally:
  - a) Issued with a notice to appear in court by the on-site Police, or approached by an Inspector who obtains the necessary details for the Police to issue a notice at a later date.
  - b) Dealt with at the discretion of the courts.

## **2.3 Reviewing and Revoking Voluntary Exclusion Orders**

*The following information is taken from the Victorian and NSW Casino Control Acts:-*

A person who is given an exclusion order may apply to the Authority (NSW Casino Control Authority or VCGR), within 28 days after the order is given for a review of the order unless the order was given at the direction of the Commissioner of Police.

At the request of the Authority, the Director is to make such inquiries into the matter as the Director thinks fit and is to report the results of those inquiries to the Authority.

If the exclusion order was given on the voluntary application of the person to whom it applies, the inquiries made by the Director are, if possible, to include inquiries made of the witness to the application.

On consideration of the grounds specified in the application for review and the report of the Director, the Authority may overrule the exclusion order or allow it to stand and is to communicate its decision to the applicant in writing.

An application for review of an exclusion order does not stay or otherwise affect the operation of the order pending the Authority's decision on the application.

With the exception of an exclusion order under review, an exclusion order remains in force in respect of a person unless and until it is revoked by the person who gave the order. If the order was given by a person for the time being in charge of a casino it may be revoked by any other person who is for the time being in charge of the casino or by the casino operator.

## **2.4 Right of Entry to Casino**

Section 77 (1) (NSW) and Section 26 (1) (WA) of the Casino Control Act, may be used by a casino operator to remove patrons from a casino, they state:

*NSW*

*A person enters and remains in a casino only by licence of the casino operator.....*

*WA*

*A person does not have the right.....to enter or remain in the licensed casino, except by the licence of that occupier, owner or casino licensee..*

### 3. SYNOPSIS OF EXISTING LEGISLATION AND PROCEDURES

- Current legislation does not require any action when a patron is identified as a problem gambler and attends the casino gaming floor, unless the person is the subject of an exclusion order (all states). Yet Responsible Service of Alcohol Regulations (NSW) require definite action by Liquor License Holders and their employees in relation to intoxication on licensed premises. However, it is acknowledged that accurately identifying problem gamblers is not as straight forward as identifying intoxication.
- Existing Voluntary Application Forms (NSW) do not indicate why the patron wants to be voluntarily excluded. There is no opportunity at the time of application to record that the patron has advised that they have a gambling problem.
- Casino legislation (Vic. & NSW), provides that the Director may issue an exclusion order following a person's voluntary application and further provides that this function may be delegated to a key official (Inspector). Current legislation also provides that a casino operator may issue a voluntary exclusion order and numerous casino personnel have been given, or can be given, the authority to issue these orders. Yet, by far the large majority of voluntary exclusion orders are issued by the casino's security department or the like.
- This being the case, a person applying for an exclusion order is generally directed to attend the gaming floor, the very place he/she is trying to be excluded from.
- Depending on the casino, the applicant may then be processed in a manner somewhat similar to what a patron might experience if they were being issued an exclusion order for more serious matters.
- There is no provision preventing an applicant requesting or receiving an exclusion order by mail provided it is completed in a manner set out in relevant legislation.
- A patron who has voluntarily applied for an exclusion order on the grounds of problem gambling, and a patron who is excluded on other grounds, may be treated in the same manner. That is, they are generally interviewed for having breached the Act, (Vic. & NSW), summons to court, and prosecuted before a local magistrate. *(One counsellor at the seminar advised that this is likely to deter a problem gambler from ever applying for an exclusion order.)*
- The appeal process and revocation option provides an opportunity for the voluntary exclusion order to be lifted if it is deemed not to be warranted (Vic. & NSW). These options apply whether the order was requested voluntarily or imposed by a third party, (i.e. the Casino, the Director, or their delegates). In Queensland the voluntary exclusion order is in force for a mandatory 12 months, before it is reviewed.

- Existing WA and NSW legislation allows a casino operator to request a patron to leave the casino, at the operator's discretion. It is unclear if this section has been used to remove a problem gambler from the casino premises.

#### **4. PROPOSED AMENDMENTS**

##### **4.1 Acknowledging Problem Gambling in Legislation.**

In some cases the first opportunity for a casino operator to identify problem gambling, may be at the time the patron voluntarily applies to be excluded. In order to increase the effectiveness of this process as a means of identification, it is proposed that amendments be made to casino legislation so that it recognises the existence of problem gamblers as distinct from other persons who are excluded from a casino.

In acknowledging this distinction the relevant legislation would authorise the exclusion of a problem gambler upon their own application, **or the application of a third party**, that being a first generation relative or a gambling counsellor.

##### **4.1.1 Problem Gamblers Voluntarily Applying for an Exclusion Order**

In order to identify problem gambling at the time a person applies to be excluded, it is proposed that the voluntary application for exclusion form include the question:

*"Are you applying for an Exclusion Order to control your gambling habit?"*  
(or words to this effect)

The applicant's response would also be indicated on the Exclusion Order itself.

The problem gambler should not be required to attend the gaming floor of the casino in order to submit their application. Nor should they be required to approach a security supervisor/manager, if they feel intimidated.

They should not be escorted to the casino interview room as are other excluded persons. Alternative locations and personnel should be made readily available, easily located, and this information publicised.

The problem gambler should be afforded the opportunity to mail applications, if so desired. Applications should be distributed to counsellors and community groups, with clear instructions for completion.

#### **4.1.2 Third Party Applying for Exclusion on behalf of a Problem Gambler**

In addition to documentation similar to those in existence with voluntary applications, such submissions should be accompanied by supporting evidence/documentation including but not limited to the following:

1. A statutory declaration by the applicant (relative or counsellor) clearly stating why the exclusion order should be issued and that the evidence being presented is true and correct.
2. A record of losses showing the extent of the gambling habit and the effects it is having on the individual's and/or family's financial well being.
3. A statutory declaration by a gambling counsellor (second opinion if applicable) in support of the application, with a clear rationale for their support.
4. A reference from a person known to the applicant (relative) and holding positions of a religious leader, Police Officer, Solicitor, Family and Community Services Representative, designated N.E.S.B. community leaders, etc, confirming the validity of the application and the character of the applicant (relative).
5. Gambling history at the Casino if available. (To be attached to application by Operator/Director upon submission of application)
6. Statement from problem gambler, (at their discretion), either supporting or refuting the application.

Legislation should require the Operator/Director to assess the above information as the basis for their decision to issue/not issue the exclusion order, and then inform the applicant, the problem gambler, and the relevant Industry Authority of their decision, in writing, within a set period.

The problem gambler should also be advised of his/her right to have the decision reviewed by the Industry Authority, under the relevant Act.



## **4.2 Re-entry by Problem Gambler to Casino following Voluntary Exclusion**

Currently in the eastern states, any excluded person who is detected re-entering the casino on the first occasion is issued with a warning notice. Any subsequent re-entries are treated as a breach of the Act, and the offender is prosecuted.

It is proposed that the problem gambler not be prosecuted initially, but rather they be given the option of entering a voluntary counselling program following their re-entry. Failing to accept this option would result in prosecution.

The counselling program would require the establishment of a network of registered counsellors, representing the ethnic backgrounds of casino patrons. The problem gambler would be referred to a specific registered counsellor by the Government Inspector and given a date by which they must attend. On the next available working day, the Inspectorate advises the counsellor by telephone of those patrons, to whom they have been referred. Should the problem gambler fail to attend, or fail to complete an agreed counselling program, then the matter is referred back to the Inspectorate and prosecution proceedings commence.

Upon successful completion of the counselling program, the problem gambler may apply to have the exclusion order reviewed by the relevant Industry Authority. Such an application should be accompanied by a report from the relevant counsellor, recommending a course of action.

Any re-entry by a problem gambler whilst undergoing a voluntary counselling program, or where the order remains in force following a review, would result in prosecution.

## **4.3 Funding**

Funding for the establishment of the counsellor referral network and the voluntary counselling program could be met by the NSW Casino Benefit Fund, or its equivalent in other states.