

— LETTERS
on LIBERTY



**RISKING IT ALL:
THE FREEDOM TO GAMBLE**

Jon Bryan

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What are Letters on Liberty?

It's not always easy to defend freedom. Public life may have been locked down recently, but it has been in bad health for some time.

Open debate has been suffocated by today's censorious climate and there is little cultural support for freedom as a foundational value. What we need is rowdy, good-natured disagreement and people prepared to experiment with what freedom might mean today.

We stand on the shoulders of giants, but we shouldn't be complacent. We can't simply rely on the thinkers of the past to work out what liberty means today, and how to argue for it.

Drawing on the tradition of radical pamphlets from the seventeenth century onwards - designed to be argued over in the pub as much as parliament - *Letters on Liberty* promises to make you think twice. Each *Letter* stakes a claim for how to forge a freer society in the here and now.

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RISKING IT ALL: THE FREEDOM TO GAMBLE

Most of us know that the late Queen Elizabeth II was fond of horse racing - and the late Queen Mother enjoyed a flutter. But there aren't many people who stand up for ordinary punters to go to a bookies and place a fiver on a horse race or the football, or chuck a few quid into a slot machine. 'We must fight for our right to have a bet' is a difficult rallying call to get behind.

The ability to place your money where your mouth is, and back what you think will win, is under threat from changes in gambling regulation that are currently being discussed in parliament. There are some serious issues in this debate which should worry us all. Our liberties could easily be fluttered away, by politicians and pundits alike.

There are some who defend gambling in specific contexts. Those associated with horse racing have been reasonably successful in getting their voices heard. Some of the legislative changes that are being discussed could have devastating consequences on the industry. 'It could kill racing stone dead', read one headline earlier this year.¹ Coordination by various

organisations and individuals connected with the sport has seen thousands of punters writing to their MPs to complain about proposed changes in gambling regulation - specifically the impact it could have on horse racing. In turn, some MPs (including Rishi Sunak and Matt Hancock) have begun to question the proposals. But when our liberties are at risk, we cannot rely upon a handful of Conservative MPs to defend our freedoms.

We wouldn't only be handing over the decision about what we could afford to somebody else, we would also be giving them authority to decide what they think is harmful to us.

We need to stand up for all kinds of gambling, not just betting on horses at Ascot. There are millions of us who gamble, whether that's playing poker, bingo, slot machines or buying lottery tickets. We too need to have our say. If we are to challenge the dominant narrative on gambling, we need more people to raise their voices and ask questions about the anti-gambling interventions being proposed. If you will excuse the pun, our liberties are at stake.

The current state of gambling regulation is largely set by the Gambling Act 2005, which governs betting and

the gambling industry in Great Britain. Significant changes have occurred since then, including the explosion of online gambling. The Act is now described as ‘analogue law in a digital age’,ⁱⁱ and is currently being reviewed by the government.

In fact, all the major political parties pledged to review gambling regulation in their 2019 manifestos, and there is big interest in what happens. The government opened a consultation at the end of 2020 and commenced what it called a Gambling Review. When it closed a few months later, nearly 16,000 written submissions had been received.

Some of the issues raised in the review should concern all of us with an interest in freedom and liberty, such as the extent to which adverts and promotions for gambling should be banned or restricted - or whether a citizen has the right to choose how they spend their own money without being watched or controlled by big business or the state. This latter point is the basis of ‘affordability checks’ for gambling, an idea that has generated a significant amount of debate.

Much of that debate centres on the issue of ‘gambling harm’. While that might seem worthy of our attention, it shifts us away from what is arguably a better focus for any regulation - a positive experience for the gambling consumer, who (as an adult) should have the

freedom to engage in a popular leisure activity if they choose to do so.

There is a considerable narrative on gambling that paints a picture of an individual easily influenced by advertising and promotions, who spends too much of their disposable income on things that they shouldn't. That approach to the individual is not one we should tolerate - it denies us the ability to make choices. We are citizens with the capacity to make our own decisions, however irrational or unusual those actions might be seen by others. A central tenet of a free society is that we can spend our money in a way that we see fit, buying goods and services without restrictions imposed on us by the state. Limiting how much we can spend on particular hobbies or leisure pursuits is an approach that we should have no time for.

This issue is not only a concern for gamblers, but for every single one of us who thinks that the state should have no role in limiting or directing our spending. We must defend the idea of the autonomous individual - or citizen - which is central to the notion of a liberal and free society. It is no wonder that 'affordability checks' have become the focus of most of the opposition to government proposals. It is also why the issue of advertising, and the idea that we are

‘normalising’ gambling, has become a significant aspect of this debate that cannot go unchallenged.

Hands off our bank accounts

In short, an affordability check places a cap on your gambling expenditure across all companies, limiting you to a fixed maximum amount to bet every month. This cap can only be exceeded if you fulfil certain criteria or produce certain documentation. The government specifically asked for evidence on the idea, giving anti-gambling lobby groups an opportunity to seize on a particular policy proposal which they think might have some purchase. They are keen for the government to tie the hands of punters and prevent them from exceeding a state-imposed cap on gambling. As evidenced by the number of horse-racing enthusiasts who have been challenging this, there is a concern that they might get their way, or perhaps achieve partial success.

The Social Market Foundation (SMF), a think tank, has produced a number of publications on gambling - working up the idea of affordability checks into a policy proposal for implementation and recommending government legislation for a cap on gambling spending set at £100 a month. You might be

surprised to hear that a cross-party think tank is asking the government to enforce in law how we spend our money, but the SMF are very clear on what they are proposing:

'Anyone who wanted to spend more than £23 a week on gambling products would have to prove they could afford to lose the money without hardship'.ⁱⁱⁱ

This is a hideously illiberal idea. What makes these proposals even worse is that they don't just make assumptions about affordability and how we organise our own household finances, but go further to talk about whether any monthly spend over £100 is likely to cause 'harm'. James Noyes, one of the authors of the SMF report, makes it clear that their concern is about other matters as well as affordability. They are also worried about the alleged harm caused by gambling:

'Gamblers should be free to spend more than this threshold - but only after they show that their gambling is neither unaffordable nor harmful... A fixed cap that applies across operators is the only way that consumers can be protected from harmful spend.'^{iv}

If the government went ahead with these proposals, we wouldn't only be handing over the decision about what we could afford to somebody else, we would also be giving them authority to decide what they think is

harmful to us. How can someone prove that their gambling is not harmful? Come to think of it, why should they? These are basic individual freedoms - such powers should not be granted to the state, or to a third party acting on the state's behalf.

If we accept state control over our spending on gambling, we concede the argument about individual choice and liberty in other areas of life, too.

The basis of an affordability check is the idea that the average citizen needs to be saved from themselves. The state needs to step in and control our finances as we cannot be trusted with them. As we continue into a period where prices are rising, and we face a cost-of-living crisis, state interventionists will welcome the ability to intrude into our household spending, making decisions for us which should be ours alone to make.

Recent history has seen unprecedented government intervention during the coronavirus pandemic. This has clearly emboldened some public bodies to be more ambitious about the kind of policies that could be implemented. Monitoring and limiting our spending on one aspect of our lives will appeal to those who believe this a necessary restriction for other public-health matters. Most of us can think of times where we have spent money on things that we didn't

need, or couldn't afford. But no campaigner is seeking to limit what we spend on clothes, nights out or holidays - at least, not at the minute.

The ease with which politicians and campaigners are willing to monitor our data and remove our freedoms shows how important the need to defend gambling is.

When gambling is discussed in parliament, particularly in the House of Lords, the tone of the discussion often slips into age-old prejudice. While it might be expressed through language about protection from harm, the narrative among our political elite is that feckless gamblers can't be trusted. Much like the way the public was painted during the pandemic lockdowns - being unable to make sensible decisions or calculate risk - debates in parliament tend to dismiss the intelligence and agency of the rest of us.

Those of us who are interested in defending freedom and liberty should be worried about what types of restrictions and regulations might be introduced under the guise of reducing gambling harm. When the SMF proposals were first launched in 2020, the Betting and Gaming Council pointed out that there is 'no other area of the economy where the government determines how much an individual can spend'.^v If we accept state control over our spending on gambling,

we concede the argument about individual choice and liberty in other areas of life, too.

The SMF are not the only ones looking to meddle in our private gambling choices. Similar proposals were put forward by the Centre for Social Justice (CSJ) in 2021 - a centre-right think tank with a history of looking at gambling and gambling reform. The proposals were endorsed by two leading politicians: former Tory Party leader Sir Iain Duncan-Smith and current Labour Party deputy Welsh leader Carolyn Harris. Senior figures in the National Health Service and the Church of England have also put their weight behind such recommendations.

In their report, the CSJ recommends that any adult wishing to make cash-based gambling transactions - including the purchase of a £2 National Lottery ticket - would be required to enter a pin so that a record of the transaction could be made. This is to ensure that all data on gambling spend by an individual can be monitored by the state. This allows a picture to be built up in order to take action to limit expenditure, should there be concerns about affordability or harm in the future. The ease with which politicians and campaigners are willing to monitor our data and remove our freedoms shows how important the need to defend gambling is.

Bans on advertising

One of the key features of the debate about gambling has been about sponsorship, adverts and the promotion by gambling companies of their products. Campaigners have called for various changes, including an end to gambling sponsorship in sport, restrictions on social media, a ban or a curfew on television advertising and the abolition of ‘free bets’. The report and recommendations from the CSJ have made their position clear, calling for ‘the comprehensive elimination of gambling marketing, inducements and advertising in the UK’.

It is worth thinking about how such a statement would be put into practice. This approach would mean the ending of correspondence from gambling companies to their customers, even if we expressed a wish to have such communication. No doubt we all get marketing emails that we don’t wish to receive. But what if you wanted to be reminded that the Cheltenham Festival is coming up, or a significant poker tournament? This sort of information can be both be helpful and wanted.

There has been considerable discussion about gambling company logos featuring on football shirts, and the government could introduce a ban on this -

particularly in the higher levels of the football league. It is remarkable to think that a Conservative government would act in this way, restricting companies from marketing their products to consumers.

We rarely hear about the experiences of those who enjoy the thrill that the risk and suspense of gambling can bring.

There are also important points about data, information and misperceptions about the state of gambling today that have wider implications for how we might approach other aspects of life. Government figures continue to show that the level of problem gambling is statistically stable - around 0.5-0.7 per cent of the adult population for the past 20 years. The latest figures in 2022 show a record low of 0.2 per cent. This does not mean that problem gambling is unworthy of attention, but it does mean that there is a difference between perceptions gained from coverage in the media and reality.

But instead of being welcomed, these stats showing low rates of problem gambling are dismissed by some campaigners and politicians as totally inaccurate. Questioning official statistics is one thing, but the level of unscientific speculation about data is an

irresponsible way to approach gambling and gambling harm. Such an approach would not be tolerated in other areas of life.

Normalising gambling

There is a certain strand of anti-gambling sentiment that complains about the way that gambling is seen today. Critics argue that gambling has become 'normalised' by its involvement in sport through sponsorship, or celebrities endorsing gambling by appearing in an advert. These common complaints are made by those concerned that gambling is no longer seen as 'seedy'.

But some of us have a different perception of gambling. For me, gambling is a leisure activity, a release, a chance to step away from other aspects of life. It's a chance to socialise, to take risks and even a chance to dream. There is something about gambling that takes you away from the everyday - an escape that is sometimes needed in these difficult and changing times. Failure to understand the pull that gambling can have on people - and that they might enjoy it - is sadly lacking among many commentators who discuss gambling regulation. We rarely hear about the

experiences of those who enjoy the thrill that the risk and suspense of gambling can bring.

Tragic stories on gambling that might dominate a news item should not be used as a reason to introduce legislative change.

As a child, I remember my Dad doing the football pools and the eagerness of awaiting the final scores on a Saturday afternoon. I remember the excitement across the country when the National Lottery first began. I remember my work colleagues forming syndicates to make sure that they would be part of any million-pound win. 'I'm not going to be the only one left in this department if they all win the big one', was a phrase I heard on a number of occasions. On a family trip to the US, I played craps (dice) with my brother-in-law in Las Vegas, taking huge enjoyment when throwing a winning roll. Gambling has been a normal part of life for me, and for many others. We even played Bingo in our street during the pandemic, which caused great excitement after we had all been locked down for so long.

The debate about advertising regularly focuses on the need to protect children, often disingenuously. Almost everyone agrees that there should be regulation, guidance and codes that protect children from

gambling marketing. The problem is that many campaigners against gambling want the same restrictions to apply to adults as well.

The enjoyment of gambling is real - millions of people in the UK gamble on a regular basis. It's a leisure activity that around half the adult population engage in. There is nothing in gambling that is inherently problematic, a point that does not come across in the way that the debate is currently shaped in the public sphere.

We should all be concerned about the introduction of more restrictions on gambling, and the background narrative that often directs discussion on policy. Tragic stories on gambling that might dominate a news item should not be used as a reason to introduce legislative change that seriously alters the balance between the individual, companies and the state.

The prevention or minimisation of harmful gambling is important and complex work, requiring an appreciation that many millions of consumers gain enjoyment from gambling, and that ill-considered attempts to address problems can in themselves be harmful. Sadly, almost every proposal on gambling regulation today is about limiting what we can do, often taking away both our privacy and basic freedoms. Accepting controls and restrictions in this

area of life sets a precedent for their introduction elsewhere.

At the time of writing, the government is still considering its plans for gambling reform, but it is clear that the inclination to introduce more restrictions is strong. The key is to challenge what underpins much of the debate on gambling - that there are certain activities where we need to be saved from ourselves, and that the government is the one to save us.

Re-asserting the ability of individuals to make their own choices, and to have the capacity to do so whatever the consequences, is vital in our defence of freedom.

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***This pamphlet is supported by:** The Betting and Gaming Council (BGC) is the single industry body for UK betting and gaming. We work with our members, to raise standards, create a culture of safer gambling and build public and institutional trust in our world class industry.*



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Jon Bryan lives with his family in Newcastle upon Tyne. He is a recreational poker player who began writing about gambling to challenge the one-sided narrative in the debate. Jon has written for online publications and websites including *spiked*, *Gambling Insider*, The Great Debate, Future Cities Project and Slots Hawk. He has been involved in discussions on TV and podcasts and spoke about gambling at the online Babbleon in December 2020, organised by WORLDwrite.



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