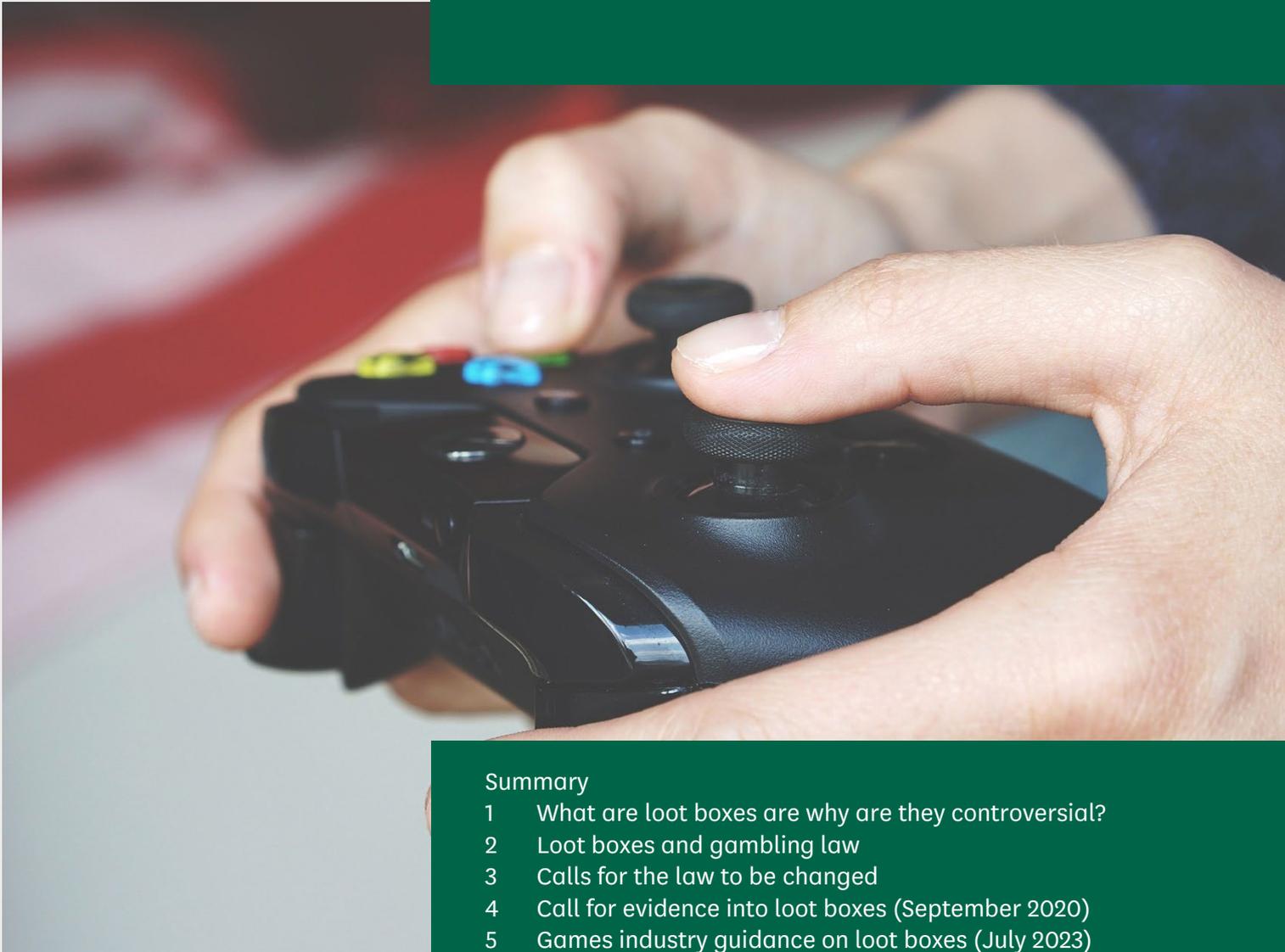


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Loot boxes in video games



Summary

- 1 What are loot boxes and why are they controversial?
- 2 Loot boxes and gambling law
- 3 Calls for the law to be changed
- 4 Call for evidence into loot boxes (September 2020)
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Summary

Loot boxes have been defined as “features in video games which may be accessed through gameplay, or purchased with in-game items, virtual currencies, or directly with real-world money”. They often appear as chests, crates, or card packs.

Concerns have been raised about the structural and psychological similarities between loot boxes and gambling and that they could encourage children to gamble.

The Gambling Commission [has said the Gambling Act 2005 doesn't cover loot boxes](#) and it therefore cannot use any of its regulatory powers to take action. However, the Commission has also said it is concerned about the blurring of the line between video gaming and gambling.

In September 2019, the Digital, Culture, Media and Sport Committee [published a report on immersive and addictive technologies](#) (PDF). This called for regulations to be made to extend the 2005 Act to loot boxes. A July 2020 [House of Lords Committee report on gambling harm](#) also called for loot boxes to be brought within the scope of the Act.

Call for evidence into loot boxes and gambling-like behaviour (June 2020)

In June 2020, as part of its response to the DCMS Committee report, [the Government announced that it would be launching a call for evidence](#) into the impact of loot boxes on gambling-like behaviour. The call for evidence formed part of the Government's wider [Review of the Gambling Act](#) (this ran from 8 December 2020 to 31 March 2021).

Government response (July 2022)

The Government's [response to the call for evidence was published in July 2022](#). This observed that a range of potential harms associated with the purchase of loot boxes had been identified – eg mental health, financial and gambling-related harms. The risks of harm were likely to be higher for children and young people. However, academic research had not yet established a causal link between loot box spending and problem gambling behaviours. In its response, the Government said it wanted to see improved protections for children and adults:

- purchases of loot boxes should be unavailable to all children and young people unless and until they are enabled by a parent or guardian.

- all players, including children, young people and adults, should have access to and be aware of spending controls and transparent information to support safe and responsible gaming.

The Government also said there should be better research on the positive and negative impacts of video games to inform future policy making. The Gambling Act would not be extended to cover loot boxes, although the Government would keep its position under review.

Games industry guidance on loot boxes (July 2023)

Following the publication of its July 2022 response to the call for evidence, the Department for Culture, Media and Sport (DCMS) convened a working group of games industry representatives to improve player protection. This resulted in the trade body, UK Interactive Entertainment, [publishing UK games industry guidance on loot boxes](#). The Government has said that, [if fully implemented, the guidance has the potential to enhance player protections in line with the objectives set out in its response](#).

To improve the evidence base on loot boxes and video games, a [Video Games Research Framework](#) was published in May 2023 to facilitate research to assess:

- the effectiveness of the implementation of industry-led protections and how widely they are being adopted across the sector.
- how best to ensure player safety with regards to loot boxes.

1 What are loot boxes and why are they controversial?

Loot boxes have been defined as “features in video games which may be accessed through gameplay, or purchased with in-game items, virtual currencies, or directly with real-world money”:

...They contain randomised items, so players do not know what they will get before opening them, but they will get something. The items are usually either cosmetic i.e. items of clothing for avatars etc, or power-ups to improve the playing experience. Loot boxes vary in the way they are accessed, their cost, how the random reward is selected and in the content they return. They are a form of microtransaction where they are available as an in-game purchase. However, loot boxes are only one part of the in-game purchase market. Their unique element is the chance mechanism. For other forms of in-game purchase, players will know what item they will receive in advance of purchase...¹

At the end of 2020, the loot box market in the UK was estimated to be worth £700m.²

In the UK, 93% of children regularly play video games, with 25-40% of these having made a loot box purchase.³ This has led to concerns about the possible role of loot boxes in encouraging children to gamble. An October 2019 report from the Children’s Commissioner for England looked at children’s experiences of gaming and [concluded that the “monetisation of gaming brings children closer to gambling”](#).⁴

Academics have raised concerns about the “structural and psychological similarities” between loot boxes and gambling and that the random delivery of loot box rewards is “akin” to gambling products.⁵

¹ Department for Digital, Culture, Media and Sport, [Loot Boxes in Video Games - Call for Evidence](#) (PDF), September 2020, p3; See also Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#) (PDF), HC 1846, September 2019, para 73 (accessed 24 October 2023)

² Figure quoted in Close J and Lloyd J, [Lifting the Lid on Loot-Boxes: Chance-Based Purchases in Video Games and the Convergence of Gaming and Gambling](#) (PDF), GambleAware, April 2021, p9 (accessed 24 October 2023)

³ As above, p15

⁴ Children’s Commissioner for England, [Gaming the system](#) (PDF), October 2019, p25 (accessed 24 October 2023)

⁵ Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#) (PDF), para 80; House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling harm – time for action](#), HL Paper 79, July 2020, paras 432-5 (accessed 24 October 2023)

2

Loot boxes and gambling law

The Gambling Act 2005

The Gambling Act 2005 regulates gambling in Great Britain.

[Section 6 of the Act](#) defines gaming as “playing a game of chance for a prize”. Under section 6(5), a prize in relation to gaming (except in the context of gaming machines):

- (a) means money or money's worth, and
- (b) includes both a prize provided by a person organising gaming and winnings of money staked.

The Secretary of State for Culture, Media and Sport can make regulations setting out when an activity is to be treated as a game or game of chance for the purposes of the Act.⁶

What has the Gambling Commission said?

The Gambling Commission oversees and enforces the 2005 Act. In a November 2017 statement, the Commission [explained why it couldn't take action against loot boxes](#):

...Our starting point in deciding our position with any product is to look closely at whether or not it falls under UK gambling law. The definition of what is legally classed as gambling is set by Parliament rather than by us. Our role is to apply that definition to activities that we see and any changes to that definition need to be made by Parliament.

The law sets a line between what is and is not gambling. As the regulator we patrol that line and where an activity crosses it and presents a risk to people, especially children, we have and will take robust action...

A key factor in deciding if that line has been crossed is whether in-game items acquired 'via a game of chance' can be considered money or money's worth. In practical terms this means that where in-game items obtained via loot boxes are confined for use within the game and cannot be cashed out it is unlikely to be caught as a licensable gambling activity. In those cases our legal powers would not allow us to step in...⁷

⁶ [Section 6\(6\) of the 2005 Act](#)

⁷ Gambling Commission, [Loot boxes within video games](#) [online], 24 November 2017 (accessed 24 October 2023)

However, the Gambling Commission did say it was concerned about the blurring of the line between video gaming and gambling and stressed the need to keep children safe:

...many parents are not interested in whether an activity meets a legal definition of 'gambling'. Their main concern is whether there is a product out there that could present a risk to their children. We are concerned with the growth in examples where the line between video gaming and gambling is becoming increasingly blurred. Where it does meet the definition of gambling it is our job to ensure that children are protected and we have lots of rules in place, like age verification requirements, to do that.

Where a product does not meet that test to be classed as gambling but could potentially cause harm to children, parents will undoubtedly expect proper protections to be put in place by those that create, sell and regulate those products. We have a long track record in keeping children safe and we are keen to share our experiences and expertise with others that have a similar responsibility. Whether gambling or not, we all have a responsibility to keep children and young people safe...⁸

In September 2018, the Commission joined other gambling regulators across Europe, as well as Washington State Gambling Commission, in signing an agreement to work together on loot boxes.⁹

⁸ As above

⁹ [International concern over blurred lines between gambling and video games](#). Gambling Commission News [online], 17 September 2018 (accessed 24 October 2023)

3

Calls for the law to be changed

In an October 2019 report on gaming, the Children’s Commissioner for England recommended the Government should take “immediate action” to amend the definition of gaming in the 2005 Act so that loot boxes could be regulated as gambling.¹⁰ Two select committees have also called for the law to be changed.

Digital, Culture, Media and Sport Committee report (September 2019)

In a September 2019 report on immersive and addictive technologies, the Digital, Culture, Media and Sport Committee called for regulations to be made to extend the 2005 Act to loot boxes:

We agree with the Gambling Commission that games companies should be doing more to prevent in-game items from being traded for real-world money, or being used in unlicensed gambling. These uses are a direct result of how games are designed and monetised, and their prevalence undermines the argument that loot boxes are not a form of gambling. Moreover, we believe that the existing concept of ‘money’s worth’ in the context of gambling legislation does not adequately reflect people’s real-world experiences of spending in games.

We consider loot boxes that can be bought with real-world money and do not reveal their contents in advance to be games of chance played for money’s worth. *The Government should bring forward regulations under section 6 of the Gambling Act 2005 in the next parliamentary session to specify that loot boxes are a game of chance. If it determines not to regulate loot boxes under the Act at this time, the Government should produce a paper clearly stating the reasons why it does not consider loot boxes paid for with real-world currency to be a game of chance played for money’s worth.*¹¹

Lords Committee report on gambling harm (July 2020)

A July 2020 House of Lords Committee report on gambling harm considered loot boxes and problem gambling.¹² The Committee also recommended that loot boxes should be brought within scope of the 2005 Act:

¹⁰ Children’s Commissioner, [Gaming the system](#) (PDF), October 2019, p4; [Changes to gambling laws needed as our report into online gaming reveals children’s gambling fears](#), Children’s Commissioner News [online], 22 October 2019 (accessed 24 October 2023)

¹¹ Digital, Culture, Media and Sport Committee, [Immersive and addictive technologies](#) (PDF), HC 1846, September 2019, paras 97-8, italics in original

¹² House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling harm – time for action](#), HL Paper 79, July 2020, paras 422-46

There is academic research which proves that there is a connection, though not necessarily a causal link, between loot box spending and problem gambling. We echo the conclusions of the Children’s Commissioner’s report, that if a product looks like gambling and feels like gambling, it should be regulated as gambling. We also agree with the House of Commons Digital, Culture, Media and Sport Committee’s recommendation that loot boxes should be regulated as a game of chance...¹³

GambleAware report (April 2021)

An April 2021 report, [Lifting the lid on loot-boxes](#) (PDF), examined the links between loot boxes and problem gaming or gambling.¹⁴ The report, commissioned by the [GambleAware](#) charity, found that:

- links between loot box purchasing and “problem gambling” had been “robustly verified in around a dozen studies”.
- around 5% of loot box purchasers could generate half of industry loot box revenue, with almost a third of them falling into the “problem gambler” (PGSI 8+) category.¹⁵
- younger males, and those with a lower educational attainment, were more likely to purchase loot boxes.¹⁶

The report recommended that future policy should, among other things, include provisions for clear definitions of loot boxes, game labelling and age ratings, full disclosure of odds presented in an easy-to-understand way, with spending limits and prices in real currency.¹⁷

The report noted the calls for gambling law to be extended to loot boxes. However, it warned the rapidly evolving world of video gaming could quickly make any legislation “anachronistic”. Longer-term mitigation of risk would require increased provision for consumer protection, child-focused data protection policies, more research, and educational packages.¹⁸

¹³ House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling harm – time for action](#), HL Paper 79, July 2020, paras 445-6

¹⁴ Close J and Lloyd J, [Lifting the Lid on Loot-Boxes: Chance-Based Purchases in Video Games and the Convergence of Gaming and Gambling](#) (PDF), GambleAware, April 2021

¹⁵ The [Problem Gambling Severity Index \(PGSI\)](#) is used to measure problem gambling in Great Britain. The criteria for PGSI classification as a “problem gambler” is a score within the range of between 8 and 27

¹⁶ [GambleAware commissioned report shows links between loot boxes and problem gambling](#), GambleAware press release (PDF) [online], 2 April 2021 (accessed 24 October 2023)

¹⁷ Close J and Lloyd J, [Lifting the Lid on Loot-Boxes: Chance-Based Purchases in Video Games and the Convergence of Gaming and Gambling](#) (PDF), p4

¹⁸ As above, p4

4

Call for evidence into loot boxes (September 2020)

In June 2020, as part of its response to the DCMS Committee report, the Government announced it would be launching a call for evidence into the impact of loot boxes on gambling-like behaviour.¹⁹ The call for evidence ran from 23 September 2020 to 22 November 2020.²⁰ Its purpose was to gather information on:

- the experience of video games players.
- the impact of loot boxes, including any evidence of potential harms.
- the size, scale and functioning of the loot box and in-game purchases market in the UK.
- the impact of current voluntary and statutory protections such as controls to manage spending and access, video games labels, and consumer regulations.²¹

The Government said it was “ready to take action” if the evidence supported taking a new approach to protect children and young people.²² The call for evidence formed part of the Government’s wider [Review of the Gambling Act](#) (this ran from 8 December 2020 to 31 March 2021).²³

¹⁹ DCMS, [Government Response to the Digital, Culture, Media and Sport Select Committee Report on Immersive and Addictive Technologies](#) (PDF), June 2020, pp7-8; [Government to launch call for evidence into loot boxes](#), DCMS news story [online], 8 June 2020 (accessed 24 October 2023)

²⁰ [Government launches call for evidence on video game loot boxes](#), DCMS press release [online], 23 September 2020 (accessed 24 October 2023)

²¹ DCMS, [Loot Boxes in Video Games - Call for Evidence](#) (PDF), September 2020, p3 (accessed 24 October 2023)

²² As above, p2

²³ The Government published a white paper, [High stakes: Gambling reform for the digital age](#) (PDF), in April 2023

4.1

Government response (July 2022)

The Government's response to the call for evidence was published in July 2022.²⁴ This reported that a range of potential harms associated with the purchase of loot boxes had been identified – eg mental health, financial and gambling-related harms. The risks of harm were likely to be higher for children and young people.²⁵ However, academic research had not yet established a causal link between loot box spending and problem gambling behaviours.

In its response, the Government said it wanted to see improved protections for children and adults:

- purchases of loot boxes should be unavailable to all children and young people unless and until they are enabled by a parent or guardian.
- all players, including children, young people and adults, should have access to and be aware of spending controls and transparent information to support safe and responsible gaming.²⁶

The Government also said there should be better research on the positive and negative impacts of video games to inform future policy making.²⁷

No extension of the Gambling Act to loot boxes

The Government said that, after “careful consideration”, it would not be extending the Gambling Act to cover loot boxes. It gave the following reasons for its decision:

- While many loot boxes shared some similarities with traditional gambling products, the ability to legitimately cash out rewards was an important distinction. In particular, the prize did not usually have real world monetary value outside of the game, and its primary utility was to enhance the in-game experience.
- Extending the Gambling Act to loot boxes would have “significant implementation challenges and risks of unintended consequences” – eg, it would require “substantial changes” to the gambling tax system, would “dramatically increase” the scope and costs of running the Gambling Commission, and “could risk capturing other

²⁴ DCMS, [Government response to the call for evidence on loot boxes in video games](#) [online], 18 July 2022; A Written Ministerial Statement (HCWS211) was published on the same date: [Loot Boxes in Video Games](#) (accessed 24 October 2023)

²⁵ DCMS, [Government response to the call for evidence on loot boxes in video games](#) [online], 18 July 2022, paras 10 to 11

²⁶ As above, para 25

²⁷ As above, para 25

unintended aspects of video games or activities outside of video games with a random reward mechanism”.²⁸

The Government also referred to consumer and data protection legislation and guidance that provided “a strong foundation” for mitigating the risks of harms associated with loot boxes:²⁹

- Video games companies and platforms are subject to consumer protection obligations, such as the Consumer Rights Act 2015. The Competition and Market Authority (CMA)’s [Principles for online and app-based games](#) (2014) were cited by several respondents as being of continued relevance for the games sector.
- Protections for consumers have continued to develop since the government published its call for evidence. The Information Commissioner’s Office (ICO)’s [Age Appropriate Design Code](#), which took effect in September 2021, requires organisations providing online services to take into account the best interests of the child. In September 2021, the Committee of Advertising Practice (CAP) published [guidance on advertising in-game purchases](#), including with regards to loot boxes.³⁰

The Government did say that it would keep its position under review and “would not hesitate to consider legislative options” if these were deemed necessary to protect players.³¹

The April 2023 gambling white paper, [High stakes: Gambling reform for the digital age](#) (PDF), reaffirmed that the Government did not intend to amend gambling law to capture loot boxes.³²

²⁸ As above, paras 35 and 36

²⁹ As above, para 38

³⁰ As above, paras 18 and 19

³¹ As above, para 39

³² DCMS, [High stakes: Gambling reform for the digital age](#) (PDF), April 2023, para 146

5 Games industry guidance on loot boxes (July 2023)

Following the publication of its July 2022 response to the call for evidence, the DCMS convened a working group of games industry representatives to improve player protection. This resulted in the trade body, UK Interactive Entertainment, [publishing UK games industry guidance on loot boxes](#) in July 2023. The Government has said that, if fully implemented, the guidance has the potential to enhance player protections in line with the objectives set out in its response.³³

To improve the evidence base on loot boxes and video games, the DCMS published a [Video Games Research Framework](#) in May 2023 to facilitate research to assess:

- the effectiveness of the implementation of industry-led protections and how widely they are being adopted across the sector.
- how best to ensure player safety with regards to loot boxes.³⁴

³³ DCMS, [Loot boxes in video games: update on improvements to industry-led protections](#), 18 July 2023 (accessed 24 October 2023)

³⁴ As above

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