

By John Woodhouse

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# Loot boxes in video games



## Summary

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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](#). 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.

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 ran from 23 September 2020 to 22 November 2020 and formed part of the Government's [Review of the Gambling Act](#) (8 December 2020 to 31 March 2021). On 19 May 2022, the Government [said it would publish its response to the call for evidence in the “coming months”](#). A gambling white paper would be published in the “coming weeks”.

## 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...<sup>1</sup>

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

In the UK, 93% of children regularly play video games, with 25-40% of these having made a loot box purchase.<sup>3</sup> 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”.<sup>4</sup>

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.<sup>5</sup>

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<sup>1</sup> 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

<sup>2</sup> 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

<sup>3</sup> Ibid, p15

<sup>4</sup> Children’s Commissioner for England, [Gaming the system](#) (PDF), October 2019, p25

<sup>5</sup> 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

## 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 Digital, 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.<sup>6</sup>

### 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...<sup>7</sup>

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<sup>6</sup> [Section 6\(6\) of the 2005 Act](#)

<sup>7</sup> Gambling Commission, [Loot boxes within video games](#) [online], 24 November 2017 (accessed 25 May 2022)

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...<sup>8</sup>

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.<sup>9</sup>

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<sup>8</sup> Ibid

<sup>9</sup> ["International concern over blurred lines between gambling and video games"](#), Gambling Commission News [online], 17 September 2018 (accessed 25 May 2022)

## 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.<sup>10</sup> 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.*<sup>11</sup>

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<sup>10</sup> 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 25 May 2022)

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



## 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.<sup>12</sup> The Committee recommended that loot boxes should be brought within scope of the 2005 Act:

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...<sup>13</sup>

## GambleAware report (April 2021)

An April 2021 report, Lifting the Lid on Loot-Boxes (PDF) examined:

- the evidence on links between loot boxes and problem gaming or gambling.
- player motivations for loot box purchasing.
- whether loot-box purchasing lead to harm (financial or otherwise).
- whether any groups were particularly at risk.
- policy response.<sup>14</sup>

The report, commissioned by the GambleAware charity, found:

- 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.<sup>15</sup>
- younger males, and those with a lower educational attainment, were more likely to purchase loot boxes.<sup>16</sup>

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<sup>12</sup> 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

<sup>13</sup> 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

<sup>14</sup> 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

<sup>15</sup> 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

<sup>16</sup> “GambleAware commissioned report shows links between loot boxes and problem gambling”, GambleAware press release [online], 2 April 2021 (accessed 25 May 2022)

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.<sup>17</sup>

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.<sup>18</sup>

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<sup>17</sup> 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

<sup>18</sup> Ibid, 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](#).<sup>19</sup> The [call for evidence](#) ran from 23 September 2020 to 22 November 2020.<sup>20</sup> 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.<sup>21</sup>

The Government said it was “ready to take action” if the evidence supported taking a new approach to protect children and young people.<sup>22</sup>

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.

On 19 May 2022, the Government [said the call for evidence received over 30,000 responses](#). The Government’s response, to be published in the “coming months”, would consider a range of issues, including in relation to gambling. A separate gambling white paper would be published in the “coming weeks”.<sup>23</sup>

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<sup>19</sup> 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 25 May 2022)

<sup>20</sup> [“Government launches call for evidence on video game loot boxes”](#), DCMS press release [online], 23 September 2020 (accessed 25 May 2022)

<sup>21</sup> DCMS, [Loot Boxes in Video Games - Call for Evidence](#) (PDF), September 2020, p3

<sup>22</sup> *Ibid*, p2

<sup>23</sup> [HL Deb 19 May 2022 c561](#)

## 5

# Loot boxes in other countries

Action has been taken against loot boxes in other countries. For example, in April 2018, the Belgian Gaming Commission found that some video games with loot boxes violated Belgian law.<sup>24</sup> The Director of the Gaming Commission, Peter Naessens, has said:

Paying loot boxes are no innocent component of video games which present themselves as a game of skill. Players are tempted and misled by them and none of the protective measures for games of chance are applied. Now that it has become clear that children and vulnerable persons in particular are being exposed to this without any protection, the game producers, and also the parties involved, are called upon to put a stop to this practice.<sup>25</sup>

Also in April 2018, the Netherlands Gaming Authority said that loot boxes where the content was non-transferable were games, and therefore legal. However, where content was transferable, this was gambling, and illegal.<sup>26</sup>

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<sup>24</sup> [“Video game loot boxes declared illegal under Belgium gambling laws”](#), BBC News [online], 26 April 2018 (accessed 25 May 2022)

<sup>25</sup> House of Lords Select Committee on the Social and Economic Impact of the Gambling Industry, [Gambling harm – time for action](#), para 427

<sup>26</sup> *Ibid*, para 428

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