

2018

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT RESPONSE TO
AUDITOR-GENERAL'S REPORT**

**No. 5/2018
Performance Report:
ACT clubs' community contributions**

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Government Response to Auditor-General's Report 5/2018: ACT clubs' community contributions

Introduction/Background

The Auditor-General released Report No. 5/2018: *ACT clubs' community contributions* (the Report) on 27 April 2018. The object of the audit was to report on the effectiveness of the ACT Gambling and Racing Commission's regulation of ACT clubs' community contributions. Matters reviewed included activities to oversee, monitor and regulate ACT clubs; including provision of policy or administrative guidance; conduct audit and compliance activities; and review or evaluate the benefits of clubs' community contributions.

The community contributions scheme has been the subject of community debate for some time, and a range of views have come forward during that debate. The Government has already announced its commitment to review the current scheme, and the Auditor-General's contribution to the dialogue is welcomed.

The Auditor-General has addressed recommendations to the ACT Government, with both policy (within the Justice and Community Safety Directorate) and operational (Access Canberra) implications, and to the statutory independent authority the ACT Gambling and Racing Commission (the Commission). Where a recommendation is for the Commission, the response provided has been endorsed by the Commission's governing Board.

Government Position on Recommendations

Recommendation 1

COMMUNITY CONTRIBUTIONS OBJECTIVES

The ACT Government should clearly state what objectives it is seeking from clubs' community contributions. In doing so, the objectives should specify the nature and type of expenditure that may be claimed.

Government Position – Agreed

The ACT Government has a vision for a strong, diverse and sustainable club industry that makes a valuable contribution to the community, and that is less reliant on gaming machine revenue. In partnership with clubs, the Government is implementing new and more robust measures to reduce gambling harm.

A number of reforms have already been put in place, including:

- limiting cash withdrawals in clubs;
- increasing club contributions to the Problem Gambling Assistance Fund by \$300,000 per year; and
- supporting small to medium clubs/club groups to diversify their income away from gaming revenue through a tax rebate and the \$10,000 Community Clubs Grant program.

Over the coming months, the Government will amend the *Gambling and Racing Control (Code of Practice) Regulation 2002* to improve processes for self-exclusion from gambling venues and to strengthen the requirements for staff training.

Work is continuing on reducing the number of gaming machine authorisations in the ACT. The findings and recommendations of the Club Industry Diversification Support Analysis are currently being considered and the Government will announce its response shortly. This response will outline the pathway for reaching 4,000 authorisations by 1 May 2020.

The ACT Government recognises the significant contributions that clubs make through the community contributions scheme. These contributions support community sports and recreational programs, reduce the effects of gambling harm, develop community infrastructure and support not-for-profit groups and charities.

The Government has committed in the *Parliamentary Agreement for the 9th Legislative Assembly for the Australian Capital Territory* to review the current community contributions scheme, with a view to maximising the direct benefit to the community from the scheme. The Parliamentary Agreement also includes a commitment to establish an independent charitable fund to distribute nominated community funds to charitable and community causes levied on venues operating electronic gaming machines in the ACT.

The review will consider issues such as the appropriate distribution of community contributions for the purpose of gambling harm reduction and other community purposes, as well as governance arrangements of the scheme. The review will look at relevant reports and models of community contributions schemes that operate in other jurisdictions, and will take into account the Auditor-General's findings and recommendations.

Consultation on the review will commence shortly.

Recommendation 2

INTERPRETIVE GUIDANCE

The ACT Gambling and Racing Commission should provide guidance on how they interpret and approve community contributions with respect to objectives (when defined by the ACT Government) and requirements in the *Gaming Machine Act 2004* and *Gaming Machine Regulation 2004*.

Commission Position – Agreed

Existing guidance material and operating procedures for both Access Canberra staff and clubs reflects the requirements of the *Gaming Machine Act 2004* (the Act) and the Guidelines set out in the *Gaming Machine Regulation 2004* (the Regulation).

Subject to the outcomes of the Government's review of the community contributions scheme; the Commission will revise or, if needed, develop detailed guidance documentation supporting the interpretation and approval of community contributions.

Recommendation 3

GUIDANCE MATERIALS (POLICIES AND PROCEDURES)

Access Canberra, in consultation with the ACT Gambling and Racing Commission, should:

- a) Review and update the policies and procedures it currently uses to regulate clubs' community contributions; and
- b) Implement a regular review process for the policies and procedures.

Government Position – Agreed

Access Canberra agrees to undertake a comprehensive review, in consultation with the Commission, of existing relevant policies and procedures subject to the outcomes of the community contributions scheme, as outlined in response to recommendation 1.

Further, Access Canberra will implement an annual review of its policies and procedures following endorsement by the Commission.

Recommendation 4

RECORDS OF BENEFICIARIES AND PURPOSE

Access Canberra should request, where currently not provided by clubs, further information regarding the beneficiary and purpose of a community contribution, before recommending its approval to the ACT Gambling and Racing Commission.

Government Position – Noted

Access Canberra currently requests additional information in all cases where there is ambiguity in the beneficiary or purpose of a community contribution submitted by a club.

It is noted that guidance to be developed under recommendation 2, subject to the outcomes of the community contributions scheme review, should improve the overall quality of information provided by clubs to Access Canberra.

Recommendation 5

RISK-BASED APPROACH TO REGULATION

The ACT Gambling and Racing Commission, in cooperation with Access Canberra, should fully document its risk-based approach to the regulation of clubs' community contributions, including decision-making associated with the percentage of clubs' contributions to be subjected to compliance checking.

Commission Position – Noted

This is a matter for Access Canberra. The Commission purchases regulatory services from Access Canberra under the Memorandum of Understanding (MOU - first entered into in August 2016, and updated in 2017), to fulfil its obligations under the *Gambling and Racing Control Act 1999*.

The Commission has previously endorsed (in June 2016) taking a risk-based approach to compliance checking of community contributions. The Commission relies on the expertise of Access Canberra as a regulator to determine where the risk thresholds are and what levels of compliance checking are appropriate; and notes the level of checking will change at the discretion of Access Canberra staff depending on the level of risk indicated in a specific circumstance.

Government Position – Agreed

Access Canberra applies a risk-based approach to compliance, to ensure that resources are targeted to where the risks of harm, unsafe practices or misconduct are the greatest, thereby strengthening its capacity to take action where the community is most at risk. The principles outlining its approach are documented in its *Accountability Commitment*. Further, the *Gambling and Racing Compliance Framework* sets out how compliance

monitoring (including audits) and investigations are undertaken under a risk-based framework.

Access Canberra assess each element of a community contribution submission; and will request additional information where there is ambiguity in the beneficiary or purpose of a community contribution submitted by a club.

The compliance audit of community contribution claims is set at 10 per cent which is consistent with the approach adopted across Access Canberra for low-risk activities. Clubs' contributions have historically been in excess of the legislated minimum, and are deemed to be a low-risk activity. Under a risk-based framework, officers retain the discretion to undertake a higher level of checking where circumstances indicate. In this way, Access Canberra's approach allows a higher level of resourcing to be applied to an activity where the risk warrants it.

Standard operating procedures will be reviewed and amended, as needed, to ensure that the justification for decisions regarding the proportion of contributions subject to compliance checking are recorded.

Access Canberra will continue to review and refine its risk-based approach and enforcement practices to ensure that the Commission can deliver its functions in reducing gambling harm, promoting consumer protection and ensuring industry integrity..

Recommendation 6

MEMORANDUM OF UNDERSTANDING BETWEEN ACT GAMBLING AND RACING COMMISSION AND ACCESS CANBERRA

Access Canberra, in conjunction with the ACT Gambling and Racing Commission, should:

- a. Prepare an annual work plan to support the Memorandum of Understanding (MOU), which outlines services to be delivered according to a budget and timeline;
- b. Revise the MOU to clearly state procedures for the management of the potential conflict of interest of the Chief Executive Officer of the ACT Gambling and Racing Commission; and
- c. Revise the MOU to include appropriate and practical dispute resolution measures.

Government Position –

a) Agreed in principle

The MOU is an overarching governance document, providing for the delivery of services by Access Canberra to the Commission.

Each year the Commission's Statement of Intent outlines its strategic priorities, and therefore the priorities for Access Canberra in supporting the Commission. The 2018-20

Commission Business Plan, developed by Access Canberra and endorsed by the Commission, provides further detail about how these objectives will be progressed.

Access Canberra teams are finalising work plans for 2018-19. The work plans reflect a team's activities that support both the Commission's strategic priorities and business as usual to ensure the Commission meets its statutory obligations; and other Access Canberra responsibilities. Work plans will not contain detailed budgets, as the budget provided by the Commission to Access Canberra to fulfil its statutory requirements is managed centrally and in accordance with the MOU.

Operational arrangements for supporting the Commission, outlined via work plans and business plans, are settled between Access Canberra management and the Chief Executive Officer of the Commission.

b) Agreed

Access Canberra will consider additional procedures to address a potential conflict of interest for the Chief Executive Officer of the Commission and put these forward for the consideration of the Commission.

Should the Commission identify any structural issues as a result of the audit findings, the Government will consider how these might best be addressed within the context of the Access Canberra model.

c) Agreed

Access Canberra will review and revise dispute resolution procedures outlined in the MOU, and put these forward for the consideration of the Commission.