



STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

JEREMY HANSON CSC MLA (CHAIR), MARISA PATERSON MLA (DEPUTY CHAIR), JO CLAY MLA

Inquiry into referred 2019–20 Annual and Financial Reports and Budget Estimates 2020-21
ANSWER TO QUESTION ON NOTICE

Asked by Mr Peter Cain MLA: To ask the Special Minister of State:

In relation to: **The justice and community safety (JACS) responsibilities of the Minister:**

Ref: JACSD Annual Report 2019-20, Administrative Arrangements 2021 (No 1) - NI2021-84

1. The Administrative Arrangements (Administrative Arrangements 2021 (No 1) - NI2021-84) lists under Special Minister of State the following JACS matters:

Age of Majority Act 1974

Australian Capital Territory (Legislative Assembly) Act 2014

Electoral Act 1992

Freedom of Information Act 2016

Proportional Representation (Hare-Clark) Entrenchment Act 1994

Race and Sports Bookmaking Act 2001

Racing Act 1999

Referendum (Machinery Provisions) Act 1994

2. What specific responsibilities does the Office of the Special Minister of State have in the administration of the above Acts?
 - a. What staffing allocation is provided to support the Minister in the administration of the above Acts?
 - b. If there is no staffing allocation, please explain how the administration of the above Acts is being undertaken in the Minister's office.

In relation to electoral policy:

1. What involvement does the Minister have in electoral commission matters in the role as assigned Minister under the administrative arrangements for the *Electoral Act 1992*?
2. What involvement, if any, will the Minister have in future discussions about the ACT's electoral boundaries?
3. At the most recent ACT election in 2020, the total number of formal votes lodged in each of the electorates (from the Elections ACT 2020 Election results website¹) was:
 - a. Brindabella 55,413

¹ https://www.elections.act.gov.au/elections_and_voting/past_act_legislative_assembly_elections/2020-election/2020-election-results



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- b. Ginninderra 56,025
 - c. Kurrajong 50,600
 - d. Murrumbidgee 53,754
 - e. Yerrabi 53,459.
4. With those numbers in mind, is Kurrajong is likely to be subject of an electoral boundary enquiry?

In relation to racing policy:

1. What legislative responsibilities does the Minister have related to racing?
 - a. What legislative responsibility does the Minister have under the *Gambling and Racing Control Act 1999*?
 - b. What legislative responsibilities does the Minister have under the *Race and Sports Bookmaking Act 2001*?
2. With regards to funding for the racing industry and clubs, in 2020 \$3.3 million (JACSD Annual Report 2019-20, p. 311) was provided through the *Diversification and Sustainability Support Fund* in relation to emergency relief for clubs as part of the COVID-19 Economic package. Please provide an outline on how this funding was spent?
3. According to the JACSD Annual Report 2019-20 (p. 33), Legislation, Policy and Programs (LPP) “continues to work with representatives of the Australian Government and state and territory governments on the implementation of the National Consumer Protection Framework to protect people at risk of online gambling harm”. Can you provide an outline of work conducted and an update on the status of implementation of the National Consumer Protection Framework?

Chris Steel MLA: The answer to the Member’s question is as follows:–

In relation to administrative arrangements:

Question 1

Noted.

Question 2

The Special Minister of State, as a Minister appointed by the Chief Minister, is part of the ACT Executive.

The Executive is responsible for administering the laws of the ACT, making administrative decisions, managing the budget, and providing services to ACT residents.



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As with all ACT Ministers, the Special Minister of State's responsibilities include:

- making day-to-day decisions about their areas of portfolio responsibility;
- the administration of various parts of the ACT public sector, including government directorates;
- answering questions about their administration that are asked during question time; and
- introducing government bills and guiding their passage through the Assembly.

The Minister has a range of powers and functions set out in the Acts highlighted in question 1.

The Special Minister of State is supported in carrying out his functions and responsibilities in relation to the listed Acts by staff in the Civil and Regulatory Law Branch of the Legislation, Policy and Programs Division in the Justice and Community Safety Directorate. These staff support several Ministers in administering their portfolio responsibilities.

In relation to electoral policy:

Question 1

The ACT Electoral Commission is established under the *Electoral Act 1992* (the Act) as an independent office of the ACT Legislative Assembly, and a member of the Commission has complete discretion in the exercise of their functions.

As such, the Special Minister of State has specified powers under the Act with respect to the ACT Electoral Commission. The Minister must present to the Assembly a written response to a special report by the electoral commission (section 10A); will receive a report if a Court of Disputed Elections finds any illegal practice (section 266(3)); and may make administrative arrangements with the Commonwealth or states for the exercise of powers under the Act (section 336).

Question 2

As noted above, the ACT Electoral Commission is an independent body. The consideration of electoral boundaries is a matter for the Commission.

Question 3

Noted.

Question 4

The *Electoral Act 1992* requires a redistribution of electoral boundaries before each general election for the ACT Legislative Assembly. This process commences two years before the next Assembly election.



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An ACT Electoral Commission fact sheet on the redistribution process is available at https://www.elections.act.gov.au/education/act_electoral_commission_fact_sheets/fact_sheets-general/html/elections_act_factsheet_redistributions.

In relation to racing policy:

Question 1a

The *Gambling and Racing Control Act 1999* (the Control Act) falls under the Minister for Gaming's responsibilities under the Administrative Arrangements.

The Control Act establishes the ACT Gambling and Racing Commission (the Commission), which has responsibility for administering the gaming laws. Under section 4 of the Control Act, 'gaming laws' include the *Race and Sports Bookmaking Act 2001* and the *Racing Act 1999*. To the extent that the exercise of the Commission's functions relates to these Acts, this may involve the Special Minister of State's responsibilities.

The Commission's functions are carried out by Access Canberra staff on behalf of the Commission. Access Canberra reports to the Minister for Business and Better Regulation on racing and gaming regulation matters.

Staff of the Justice and Community Safety Directorate and Access Canberra work together to support the three Ministers with responsibilities in the racing and gaming area.

Question 1b

Under section 24 of the *Race and Sports Bookmaking Act 2001* (the Act), the Special Minister of State (as the responsible Minister) may determine the maximum number of sports bookmaking licences that may be issued by the Commission and the maximum number of sports bookmaking licences that the Commission may issue to:

- (i) individuals; and
- (ii) syndicates; and
- (iii) corporations.

Under section 29 of the Act, the Minister may determine criteria for deciding the period for which sports bookmaking licences may be issued.

Under sections 65(1) and (2) of the Act, the Minister may determine a range of matters relating to tax on race and sports bookmaking.

Under section 97 of the Act, the Minister may determine fees for the Act.

Other functions under the Act, such as the issuing of race and sports bookmaking licences, are carried out by Access Canberra on behalf of the ACT Gambling and Racing Commission.



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Question 2

The Diversification and Sustainability Support Fund (DSSF) is part of the Minister for Gaming's responsibilities, as the Fund is established under section 163F of the *Gaming Machine Act 2004*.

I am advised by the Minister for Gaming as follows:

The distribution of the \$3.3 million in emergency relief funding to clubs through the Diversification and Sustainability Support Fund is set out in Figure 2 on page 32 of the JACSD Annual Report 2019-20.

In accordance with section 163F(2)(b) of the *Gaming Machine Act 2004*, the funding was provided for the purpose of supporting the sustainability of clubs by providing emergency relief funding for the payment of wages and other financial support to club staff, in the context of club closures as a result of the COVID-19 public health emergency.

Question 3

Implementation of the National Consumer Protection Framework falls under the responsibilities of the Minister for Gaming, as the measures are being implemented through the *Gambling and Racing Control (Code of Practice) Regulation 2002*.

I am advised by the Minister for Gaming as follows:

The National Consumer Protection Framework for Online Wagering in Australia (NCPF) was developed by the Commonwealth in consultation with States and Territories, industry, community, academics, and gambling harm reduction advocates. The NCPF is being implemented through a National Policy Statement endorsed by all relevant Ministers (the NCPF Statement, available at https://www.dss.gov.au/sites/default/files/documents/11_2018/national-policy-statement.pdf).

The NCPF Statement sets out the agreed policy commitments of Commonwealth, State, and Territory governments that underpin the introduction of the Framework's measures. The NCPF Statement also outlines the agreed implementation arrangements that all governments will use to deliver the Framework.

The NCPF consists of ten consumer protection measures. These measures provide a suite of tools available for use by individuals, as well as requirements for interactive wagering service providers to help mitigate the risk of harm through online wagering. The measures are to be implemented through a combination of Commonwealth, and State and Territory regulatory changes.



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The NCPF Statement commenced on 26 November 2018, with a view that the measures be introduced progressively over the course of 18 months, that is, by mid-2020. There have been some delays in the implementation of certain NCPF measures, as outlined below.

ACT Implementation of the NCPF

The ACT is a signatory to the NCPF Statement and a member of the interjurisdictional Implementation Governance Committee (IGC) which oversees the implementation of the measures.

The following measures have been implemented in the ACT through amendments to the *Gambling and Racing Control (Code of Practice) Regulation 2002*, which took effect on 26 May 2019:

- Restrictions on inducements – This measure prohibits all specified inducements (such as incentivising the opening of an account or referring another person, encouraging gambling, bonus bet conditions, direct marketing).
- Account closure – This measure ensures that closing/cancelling an online wagering account is readily available, and accessible by all customers.
- Voluntary opt-out pre-commitment scheme (deposit limits) – This measure provides consumers with a tool to help them monitor and manage their gambling by pre-committing to deposit limits. These limits apply on an operator basis.

While this measure has been effective since 26 May 2019, there has been a delay in assessing the feasibility of a multi-operator pre-commitment scheme due to COVID-19 impacts. Work on this measure continues.

The following measures will be implemented by States and Territories (including the ACT) once the Commonwealth Government completes further work to inform the roll out of each measure. There have been some delays in this work, which has affected the agreed timeframes under the Statement (introduction 18 months from commencement, i.e. by 26 May 2020):

- Activity statements – This measure ensures customers receive meaningful statements on their wagering activity from each interactive wagering service provider. The provider must provide an activity statement to the customer at least once a year for as long as the customer has an active betting account. Delays occurred in the trialling and testing work, however, this work is now complete and proposed refinements to the principles are now being considered by the IGC ahead of consideration by Ministers.
- Consistent gambling messaging – This measure provides for evidence-based, consistent gambling messaging by interactive wagering service providers. The project methodology for this measure was significantly impacted by COVID-19. Further work on this measure continues.
- Staff training – This measure provides for the training of certain staff in the responsible service of online gambling. The development of the online national training competency was significantly impacted by COVID-19. Further work on this measure continues.



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Commonwealth Implementation of the NCPF

The Commonwealth has responsibility for the implementation of several measures under the NCPF, as follows:

- Prohibition of lines of credit – This measure prohibits the offering or provision of credit by interactive wagering service providers for wagering purposes, with the exception of certain on-course bookmakers. This measure took effect on 17 February 2018 under the Commonwealth's *Interactive Gambling Amendment Act 2017*.
- Payday lenders – This measure discourages the use of small amount credit contracts (payday lending) for online wagering. This measure took effect on 17 February 2018 under the Commonwealth's *Interactive Gambling Amendment Act 2017*.
- Customer verification period – This measure reduces the customer verification period to a maximum 14 days for online wagering across all jurisdiction. This measure has been implemented through the Commonwealth's *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 [No. 1]* (AML/CTF Rules). The Commonwealth has recently completed a 12-month review of customer verification measures, and the review findings are being considered by the IGC.
- National Self-Exclusion Register – This measure provides for a national self-exclusion register (NSER) for online wagering. This system ensures that those experiencing gambling harm can immediately exclude themselves from the services offered by all interactive wagering service providers. This measure was originally intended to take effect 18 months from the commencement of the National Framework, i.e. by 26 May 2020). The Commonwealth has advised there has been a delay to the implementation of the NSER.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:

Date:

25/3/21

By the Special Minister of State, Chris Steel MLA