



Mr George Taylor Former President Cabra-Vale Ex-Active Servicemen's Club Ltd [REDACTED]	Mr Dimitri Argeres Director Compliance Operations Liquor and Gaming NSW Department of Customer Service 4 Parramatta Square 12 Darcy Street PARRAMATTA 2150 [REDACTED]
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1 July 2020

Dear Sir/Madam

Complaint reference No.	DF19/016294
Matter	Disciplinary complaint against Mr George Taylor, former president of the Cabra-Vale Ex-Active Servicemen's Club Ltd (LIQC300226107)
Complainant	Mr Sean Goodchild, Director Compliance Operations, Liquor and Gaming NSW
Respondent	Mr George Taylor
Premises	Cabra-Vale Ex-Active Servicemen's Club Ltd 1 Bartley Street Canley Vale NSW 2166
Issue	Whether the ground of complaint has been established
Legislation	Part 6A of the <i>Registered Clubs Act 1976</i> (NSW)

Decision with Reasons and Notice of Disciplinary Action on Complaint to the Independent Liquor and Gaming Authority concerning Mr George Taylor, former president of Cabra-Vale Ex-Active Servicemen's Club Ltd, under Part 6A of the *Registered Clubs Act 1976* (NSW)

On 14 October 2019, the Independent Liquor and Gaming Authority ("Authority") received a disciplinary complaint ("Complaint") from Mr Sean Goodchild, then Director of Compliance Operations, Liquor and Gaming New South Wales ("Complainant") as delegate of the Secretary of the New South Wales ("NSW") Department of Customer Service ("Secretary of the DCS").

The Complaint is made under Part 6A of the *Registered Clubs Act 1976* (NSW) ("Act") in relation to Mr George Taylor, a former member of the governing body and President of a registered club, the Cabra-Vale Ex-Active Servicemen's Club Ltd ("the Club") (LIQC300226107) located at 1 Bartley Street, Canley Vale NSW 2166 ("Premises").

The Complaint specifies one ground of complaint ("Ground") that is available under section 57F(3)(g) of the Act – that the secretary of the club or any member of the governing body of a club is not a fit and proper person to act as such.

The Authority has considered the Complaint material and all submissions received in relation to the matter and is satisfied that Ground is established.

After considering the further submissions on what, if any, disciplinary action should be taken on the basis of the Authority's findings, the Authority determined at its meeting on 17 June 2020 to take the following disciplinary action:

- (i) Pursuant to section 57H(2)(g)(i) and (ii) of the Act – Mr Taylor is declared **ineligible** to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body (or both of those positions) of the Club, and all other registered clubs for a period of five years from 1 July 2020.
- (ii) Pursuant to section 57H(2)(i)(i) - Mr Taylor is ordered to **pay** the Secretary of DCS the amount of **\$6,745.00**, being the costs on the investigation giving rise to this Complaint, by no later than 28 days after 1 July 2020.

Information about review rights is provided at the end of the attached statement of reasons. If you have any questions about this letter, please contact the Authority Secretariat via email at ilga.secretariat@liquorandgaming.nsw.gov.au

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed in a thin blue rectangular border.

Philip Crawford
Chairperson

For and on behalf of the Independent Liquor and Gaming Authority

INTRODUCTION

1. On 14 October 2019, Mr Sean Goodchild, then Director of Compliance Operations, Liquor and Gaming New South Wales (“Complainant”), as a delegate of the Secretary of the New South Wales (“NSW”) Department of Customer Service (“Secretary”), submitted to the Independent Liquor and Gaming Authority (“Authority”) a disciplinary complaint (“Complaint”).
2. The Complaint is made under Part 6A of the *Registered Clubs Act 1976* (NSW) (“Act”) in relation to Mr George Taylor, a former member of the governing body and former president of a registered club, the Cabra-Vale Ex-Active Servicemen’s Club Ltd (“the Club”) (LIQC300226107) whose premises are located at 1 Bartley Street, Canley Vale NSW 2166 (“Premises”).
3. No complaint was made against the Club itself.

GROUND OF COMPLAINT

4. The Complaint specifies one ground (“Ground”) that is available under section 57F(3)(g) of the Act, which states:

(3) Disciplinary action may be taken by the Authority against a registered club or a person who is the secretary or a member of the governing body of a registered club on any one or more of the following grounds—

...

(g) that the secretary of the club or any member of the governing body of the club is not a fit and proper person to act as such,

5. The Authority notes that section 57E(1)(b) of the Act states:

(1) In this Part –

...

(b) a reference to a member of the governing body of a registered club includes a reference to a person who was a member of the governing body of any registered club.

6. The Ground alleges that a former member of the governing body of the Club, Mr George Taylor, is not a fit and proper person to act as such.

COMPLAINT MATERIAL

7. The Complainant has provided a one page cover letter signed and dated 14 October 2019 (“Cover Letter”) accompanied by a fourteen page complaint submission letter (“Complaint”) accompanied by fifteen Exhibits E01 to E15 that are described in the Schedule (together, the “Complaint Material”).

CONSULTATION

Show Cause Notice dated 8 July 2019

8. On 31 October 2019 the Authority’s Reviews and Secretariat Unit (“Authority Secretariat”) sent a letter to Mr Taylor inviting him to show cause as to why disciplinary action should not be taken on the basis of the Ground of Complaint (“Show Cause Notice”). This notice was copied to the Complainant and

specified a timetable for the filing of evidence or other material and submissions from the parties.

No Response from Mr Taylor Addressing Merits of Complaint

9. At the date of this letter, no submission has been received from Mr Taylor addressing the merits of the Complaint.

No Further Submission from the Complainant

10. By reason that no submission was received from Mr Taylor, no further submission has been made by the Complainant.

FINDINGS

11. A disciplinary complaint under Part 6A of the Act is an administrative matter and findings of fact are made on the civil standard of proof. However, in accordance with the principle enunciated by the High Court of Australia in *Briginshaw v Briginshaw* (1938) 60 CLR 336, the seriousness of the allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are matters that are relevant to deciding whether an allegation has been proved, on the balance of probabilities.

Ground of Complaint

12. Paragraphs 42 to 47 of the Complaint sets out certain preliminary matters. At paragraph 42, the Complainant advises that the Ground of Complaint is based upon section 57F(3)(g) of the Act - that a member of the governing body of the Club is not a fit and proper person to act as such.
13. The Authority accepts the submission in paragraph 43 that a “registered club” is defined under section 4 of the Act to mean a club that holds a club licence under the Liquor Act 2007. The club licence is evidenced by way of a Licence Record from the L&GNSW OneGov licensing database at Exhibit E01.
14. As noted above, the Authority accepts the Complainant’s submission in paragraph 44 of the Complaint, that section 57E(1)(b) of the Act extends the application of the disciplinary provisions in Part 6A of the Act to a *former* member of the governing body of a registered club.
15. At questions 21 to 26 of the Taylor Interview (E02), Mr Taylor stated that he had been a member of the Club for “forty-nine years” and had been on the board of the Club for “[n]ineteen years”, was President of the Club for “[f]our years” and Vice President for “[m]aybe six years”. The Authority accepts this evidence of his past roles with the Club.
16. The alleged misconduct that is the focus of the Ground of Complaint is stated to have occurred on 25 May 2019. The Authority is satisfied, on the information provided in the Club 6 June 2019 Letter (E04) that Mr Taylor was Club President (and hence a member of the governing body, per section 57E(1)(b) of the Act) on 25 May 2019.
17. At paragraph 45 of the Complaint the Complainant cites *Hughes & Vale Pty Limited (No. 2)* (1955) 93 CLR 127 and submits that the common law principles

of honesty, knowledge and ability are relevant in an assessment of a person's fitness and propriety, which also include an assessment of whether a person has the character to fulfil the statutory function. At paragraph 46, the Complainant makes brief submissions on *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321 which are discussed further below.

18. At paragraph 47, the Complainant makes the central contention that Mr Taylor is not a fit and proper person to be a member of the governing body of this Club or any other club in NSW. The Particulars are specified at paragraphs 48 to 59 and paragraph 48 repeats and relies upon the Background contentions in paragraphs 1 to 47.

Fitness and Propriety at General Law

19. It is well established at common law that to be "fit and proper", a person must have a requisite knowledge of the Act (or Acts) under which he or she is to be licensed and the obligations and duties imposed thereby: *Ex parte Meagher* (1919) 36 WN 175 and *Sakellis v Police* (1968) 88 WN (Pt 1) (NSW) 541. Being fit and proper normally comprises the three characteristics of "honesty, knowledge and ability": *Hughes & Vale Pty Ltd v NSW* (No 2) (1955) 93 CLR 127.
20. Furthermore, where a person has been convicted of offences, the decision maker must consider the circumstances of those convictions and the general reputation of the person apart from the convictions and the likelihood of repetition – *Clearihan v Registrar of Motor Vehicle Dealers in the ACT* (1994) 117 FLR 455
21. Moreover, in *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321, the High Court of Australia held that:

The expression 'fit and proper person' standing alone, carries no precise meaning. It takes its meaning from its context, from the activities in which the person is or will be engaged and the ends to be served by those activities. The concept of 'fit and proper' cannot be entirely divorced from the conduct of the person who is or will be engaging in those activities. However, depending on the nature of those activities, the question may be whether improper conduct has occurred, whether it is likely to occur, whether it can be assumed that it will not occur, or whether the general community will have confidence that it will not occur. The list is not exhaustive but it does indicate that, in certain contexts, character (because it provides an indication of likely future conduct) or reputation (because it provides an indication of public perception as to likely future conduct) may be sufficient to ground a finding that a person is not fit and proper to undertake the activities in question.

Findings on Background Contentions

22. The Authority accepts, as contended in paragraph 1 of the Complaint, that the Licence Record (E01) indicates that the Club holds a registered club licence with a recorded start date of 17 December 1956. As contended in paragraph 2, Mr Boris Belevski is the current Secretary and CEO of the Club, having held those positions since 17 October 2013.
23. At paragraph 3, the Complainant contends that Mr Taylor had, at the time of Complaint, been a member of the Club for some forty nine years and a Club

director for nineteen of them, during which period he had served as Vice-President for six years and President for four. As noted above, these matters are established by Mr Taylor's evidence at questions 21 to 26 of the Taylor Interview (E02).

Findings on the Recent Disciplinary History of the Club

24. Paragraphs 4 to 6 of the Complaint provide a brief account of the Club's recent disciplinary history. The Authority accepts, as contended and on the basis of the O'Brien Complaint Decision (E15) and the Martin Complaint Decision (E08) that:
- In 2014 the Authority found the then Secretary of the Club, Mr William O'Brien, was not a fit and proper person arising from his distribution of extreme pornographic and racist material to Club staff using his work phone. Pursuant to section 57H(2)(g) of the Act, the Authority disqualified Mr O'Brien from holding the office of secretary or being a member of a governing body, of the Club or any other registered club in NSW for a period of three years [the then maximum period available under the Act] and ordered the Club to pay the Secretary's investigation costs.
 - In 2016 the Authority found the then President of the Club, Mr Stanley Martin, to be a not fit and proper person after being charged with an indecent assault on Club premises against a junior female staff member. The matter was proven but no conviction recorded following an appeal against conviction to the District Court of NSW. Nevertheless, pursuant to section 57H(2)(g) of the Act the Authority ordered that Mr Martin was ineligible to stand for election, or be appointed to or hold office in the position of either secretary or as a member of the governing body of a registered club in NSW, for a period of three years from the date of that decision [the maximum period then available under the Act] and ordered the Club to pay the Secretary's costs on the investigation.

Further Information and Records Provided by the Club

25. At paragraph 7 of the Complaint, the Complainant contends that on 6 June 2019, Mr David Kennedy, a lawyer acting for the Club, contacted L&GNSW Compliance staff by email to report an alleged incident that had occurred on the Club Premises on 25 May 2019, involving Mr Taylor and the Employee.
26. Mr Kennedy's email described the incident as involving Mr Taylor standing uncomfortably close to the Employee, putting his arm fully around her, and twice spanking her on the bottom – forcibly, to the extent of causing her pain. The Authority accepts this information on the basis of the Club 6 June 2019 Email (E06).
27. The Authority further accepts, as contended in paragraph 8 by reference to Exhibit E06, that an internal investigation was conducted by the Club, which gave rise to a draft summary of a proposed (internal) Club disciplinary complaint against Mr Taylor. The draft complaint described the Employee as "a relatively young female member of the club's staff" and Mr Taylor's conduct as "inappropriate, unnecessary, unwelcomed and potentially unlawful".
28. The Authority also accepts the information provided at paragraph 9 of the Complaint that L&GNSW then engaged Mr Kennedy in his capacity as a

solicitor for the Club, to arrange for the production of various records relating to this internal complaint, including CCTV footage which recorded the incident. The Complainant advises, and the Authority accepts on the advice provided in this email, that the Club was notifying L&GNSW “as a courtesy” rather than making a formal complaint to the Department against Mr Taylor.

Findings on the Timeline of Events

29. As contended in paragraph 10 of the Complaint, the Authority accepts the following information provided by Mr Kennedy providing a timeline of events, as specified in the Club 6 June 2019 Email (E06):

- (a) On 21 May 2019 (4 days prior to the incident), Mr Taylor chaired a meeting of the Compliance Committee of the Club [however the Authority notes that the Club Meeting Minutes (E05) record the finding that Mr Taylor was “a member and not chairman”]. At this meeting there was a lengthy presentation regarding a draft Directors’ Code of Conduct that included additional provisions regarding making complaints against directors and it was resolved that this draft be presented to a full meeting of the board for approval.
- (b) On 25 May 2019 the incident between Mr Taylor and the Employee occurred.
- (c) On 28 May 2019 (three days following the incident), the Directors’ Code of Conduct was adopted, with some further additions from the original draft at a full board meeting chaired by Mr Taylor.
- (d) On 30 May 2019, the Employee met with Mr Belevski (the Club’s CEO) and made a formal complaint about the incident involving Mr Taylor. The Club alleged that management were not aware of the incident until this time, which was confirmed by the Employee in a subsequent affidavit. [The Authority notes that the Employee Affidavit (E14) specifies at paragraphs 49 and 50 that at about 3:00 pm on 30 May 2019 the Employee went to a meeting with Mr Belevski and explained what happened]. The Club advised that at this point they commenced an internal investigation regarding the allegations. This included securing the relevant CCTV footage and obtaining legal advice.
- (e) On 5 June 2019, Mr Taylor attended a meeting with Mr Belevski and Mr Kennedy. [Although the Club 6 June 2019 Email states “5 May”, the Authority assumes this to be a typographical error and intended to mean 5 June as submitted in the Complaint]. Mr Taylor was advised of the complaint against him, was shown the CCTV footage and was said to have been afforded the opportunity to provide an explanation. Mr Taylor was then advised that Mr Belevski would be exercising his power pursuant to the Constitution of the Club to suspend Mr Taylor’s membership and would refer him to a disciplinary hearing of the Board of the Club. The suspension was said to be pending the determination of the complaint made by the Employee at that disciplinary hearing.
- (f) Mr Belevski then immediately spoke to two other directors who called an emergency board meeting at 11.00 am on that day with all directors present in person or by phone. The Board were advised in general terms of the allegations so as to not prejudice any determination at a board disciplinary hearing. A date of 14 June 2019 was set for that hearing, with the Board also determining to notify L&GNSW of the incident.
- (g) The Club also advised that it endorsed the Employee taking time off work and encouraged her to utilise the support available via the Club’s Employee Assistance Program. They also noted that the Chief Operating Officer of the

Cabra-Vale Diggers Group, Ms Kristen Gower, has remained in contact with the Employee.

Findings on CCTV Footage

30. Having reviewed the CCTV the Authority further accepts the Complainant's account in paragraph 11 of the Complaint as to what the CCTV Footage (E03) depicts:
- (a) The footage shows a function room at the Club, with a raised podium area and ten tables with chairs at which there remain approximately over a dozen participants in that function.
 - (b) Towards the bottom right area of the room are three individuals who may be seen standing in close proximity to one another and engaged in conversation. The person on the left side of the group is wearing a light coloured top and black pants and appears to be an older male, the one in the middle is wearing a dark suit jacket and dark pants and appears to be a young female while the person on the right side of the group is wearing a dark vest, light top and dark pants and appears to be a middle-aged male. These people were subsequently identified (from left to right) as Mr Taylor, the Employee and a Club staff member Mr David Martin.
 - (c) At 40 seconds into the video [time code 09:53:59.918 PM (AEST)] Mr Taylor appears to be talking directly to the Employee. At 48 seconds [time code 09:54:07.558 PM (AEST)] he is shown putting his arm around the Employee's shoulder with the palm of his hand in the middle of the Employee's back. At 51 seconds [time code 09:54:10.438 PM (AEST)] Mr Taylor's hand moves from the Employee's back onto her left arm and at 53 seconds [time code 09:54:12.358 PM (AEST)] he removes his hand from her arm. At this time, another woman joins the group and begins talking to Mr Martin. Mr Taylor, in his interview (at questions 161 to 165 of E02), identified this person as Ms Poh Mok who he describes as a "worker at the club".
 - (d) At 1:01 minutes into the video [time code 09:54:20.078 PM (AEST)], Mr Taylor strikes the Employee on her buttocks with an open palm, twice, while Mr Martin and Ms Mok look at Mr Taylor. As this is occurring, another male wearing an orange top and dark pants begins walking over toward the group and at 1:09 minutes [time code 09:54:27.798 PM (AEST)] joins the group. Mr Taylor identified this person as Mr Cengiz (Angus) Yusuf. [The Authority notes that at question 174 of the Taylor Interview (E02), Mr Taylor states "Yousef" when asked what this person's name was and at question 173 specifies that he was Ms Mok's "husband"].
 - (e) At 1:15 minutes [time code 09:54:33.558 PM (AEST)] Mr Taylor, Ms Mok and Mr Yusuf walk away from Mr Martin and the Employee. The Employee and Mr Martin then engage in conversation and at 1:24 minutes [time code 09:54:42.158 PM (AEST)] Mr Martin shrugs his shoulders. Mr Martin and the Employee leave the area they were standing in [time code 09:54:50.838 PM (AEST)] and at 1:37 minutes [time code 09:54:54.678 PM (AEST)] the Employee gestures back in the direction of where they had been standing with Mr Taylor and others. At this time Mr Taylor has walked over to the buffet table located in the middle of the room on the far wall.
 - (f) The Employee and Mr Martin then walk in the direction of the buffet table located against the far wall of the function room and in close proximity to Mr Taylor. The CCTV video file ends at 2:44 minutes [time code 09:55:59.041 PM (AEST)] and there does not appear to be any further interaction between Mr Taylor and the Employee on the file.

The Club's Internal Disciplinary Action

31. At paragraphs 12 to 16 of the Complaint, the Complainant provides details of the Club's correspondence with Mr Taylor. The Authority accepts, as contended in paragraph 12, that the Club voluntarily provided a number of documents to L&GNSW as part of the latter's investigation into the incident. An example is the Club 6 June 2019 Letter (E04), which sets out the Club's allegations regarding Mr Taylor's conduct.
32. The Authority accepts, as contended in paragraph 13 of the Complaint, that in the Club 6 June 2019 Letter (E04), Mr Taylor was given notice that a Club disciplinary hearing regarding his alleged conduct was to occur. This letter also stated that until the completion of the hearing, Mr Taylor's membership and membership rights were suspended. The letter alleged that his conduct was contrary to that expected of the Club's President and contrary to the Club's constitution. It succinctly outlined the particulars of the alleged incident as follows:

You intermeddled in the operational or administrative affairs of the club by remonstrating with and disciplining a staff member [the Employee], (to whom you were well-known as the President of the club) – when the appropriate course of action if you had any concern was to report that concern at an appropriate time to the CEO or Duty Manager or other senior club executive.

You further acted in respect of [the Employee] (being a relatively young female member of the club's staff) in a manner that was inappropriate, unnecessary, unwelcomed and potentially unlawful, by —

- i. standing uncomfortably close to her, and*
- ii. putting your arm fully around her, and*
- iii. twice spanking her on the bottom, forcibly and to the extent of causing her pain.*

33. As contended in paragraph 14, this Club letter notes that Mr Taylor holds a differing impression of the events, despite conceding that the CCTV footage is "not inaccurate". The Club states:

You have been shown the club's CCTV footage of that incident and have acknowledged that the footage is not inaccurate and does not of itself convey any misleading impression — although you say that your latter action should be characterised as "pats" and you have also expressed a different view as to how those actions by you should be assessed.

34. The Authority accepts, as contended in paragraph 15, and on the basis of the Club 17 June 2019 Email (E07), that a Club disciplinary hearing was held during a Club board meeting on 14 June 2019. Mr Taylor appeared and made oral submissions, calling three witnesses on his behalf. Mr Kennedy advises L&GNSW of the outcome of the hearing as follows:

The Board made several findings and on the basis of those findings proceeded to find Mr Taylor to be guilty of acting contrary to the club's Constitution and of having demonstrated character or reputation that may be prejudicial or bring disrepute to the club.

The Board on that basis determined that Mr Taylor be expelled from membership of the club and he was duly notified to that effect at the meeting.

35. The Complainant contends at paragraph 16 that certain particulars of the offending conduct were identified by the Club as “potential additional aggravating factors” for the purposes of this Club disciplinary hearing. They are described in Exhibit E04 as follows:

- i. You have on several occasions undergone internally and externally facilitated training in relation to what is and is not, appropriate behaviour on the part of any director.*
- ii. In your capacity as a director and member and chair of the Compliance Committee of the Board, you participated in a detailed review of the then-draft Director's Code of Conduct on Tuesday 28 May 2019 - that was subsequently adopted with additional provisions, by Board resolution on Tuesday 28 May 2019.*
- iii. You are aware that behaviour by a former club CEO and on another occasion by a former club President, in relation to staff members, had been identified as seriously inappropriate and unlawful and had led to legal actions including complaints against the club and the addition of an extra condition on the club's liquor licence for its main premises.*
- iv. You were a director of the club at all times material to those occasions of inappropriate behaviour by a former club CEO and a former club President.*

36. At paragraph 16 of the Complaint, the Complainant contends that the Club's resolution from this board meeting noted “that Mr Taylor [in general] admitted the factors particularised as aggravating factors”. The Authority notes that the Club's findings on these aggravating factors were recorded in the Club Meeting Minutes (E05) as follows:

“Mr Taylor admitted the factors particularised as aggravating factors save that he was a member and not chairman of the Complaints Committee and the first meeting to review the draft Directors Code of Conduct was on 21 not 28 May 2019”.

Mandatory Workplace Training Conducted by the Club

37. The Authority further accepts, as contended in paragraph 17 of the Complaint, that as a result of the Martin Complaint Decision (E08) the Authority imposed a condition upon the Club's licence regarding the regulation of appropriate workplace conduct as follows:

The Club board and employees will undertake annual training, each calendar year, commencing in 2016, on appropriate workplace conduct. Such training shall be delivered by a registered training provider.

38. The Authority accepts, as contended in paragraph 18 of the Complaint, that the Club has documented its compliance with this condition, including evidence of Mr Taylor's attendance and participation in the training. This finding is made on the basis of the ADB Certificates (E09) and ADB Presentation (E10) (utilised as part of the 2018 training) which record, as alleged in paragraph 19, that Mr Taylor participated in courses during 2017 and 2018 entitled “Discrimination, Harassment and Bullying Prevention Training” and “Bullying, Discrimination

and Harassment Prevention Training for Directors and Executives” respectively.

39. The Authority accepts the Complainant’s contentions in paragraph 20 of the Complaint regarding the content of the training on the basis of the ADB Presentation at Exhibit (E10). That is, the training material set out in some detail what is and what is not considered appropriate workplace conduct and includes examples of conduct that should be avoided due to the risk as to how it may be perceived by another person. As noted by the Complainant, one example is slide 12 of the ADB Presentation (E10) which states:

Harassment (Protected characteristics) is behaviour that is:

- *Unwanted, unwelcome and unreciprocated*
- *In the circumstances a reasonable person would have anticipated that it would offend, intimidate or humiliate.*

Further Information Obtained During the Taylor Interview

40. The Authority accepts, as contended in paragraph 21 of the Complaint and on the basis of the transcript of the Taylor Interview (E02), that on 31 July 2019 L&GNSW Inspectors conducted a voluntary interview with Mr Taylor. He provided relevant information regarding the incident in question, his view of the impugned conduct and his recollection of the mandatory training conducted by the Club.
41. At paragraph 22 the Complainant again refers to Mr Taylor’s period of Club membership and tenure in regulated roles and Mr Taylor’s responses when questioned about the training at questions 32 to 34, 86 to 88, 320 to 325 and 336 to 337 of the Taylor Interview. The Authority notes that Mr Taylor’s responses are as follows:

- Q 32: O.K. And what about any training associated with being in a registered club?
- A: Yes, done all the pre-mandatory training and the CDI and seminars that they have.
- Q33: All right. Do you remember the names of any of that training or what it involved?
- Q34: Ah, ah, I wouldn't, ah, I, ah, wouldn't remember what they were called, but it was, ah, anti, ah, money laundering, ah, and harassment, ah, financial affairs of clubs - - -
- ...
- Q86: And what about training about appropriate workplace conduct? Do you recall - - -
- A: Yes.
- Q87: - - - what that covered? O.K. So when was that, that training?
- A: That mostly would be the anti-bully training.
- Q88: O.K. So what does that cover?
- A: Ah, a lot of different, ah, things. It is, if you stare at someone for too long, that is, ah, bullying. Um, speaking rudely or something, that, ah, that can form harassment. And, I mean, there's discipline or, you know, discipline people where you're not supposed to, that, that is in, in that, ah, in the course.
- ...
- Q320: So this is the decision made by the Independent Liquor and Gaming Authority in relation to Stan Martin. So the only page that I'll show you for this one, just skip right to that, is the second-last page. This

is page 47. I'll just put this in the front, which is GT3. So we'll just go to this section under Orders, that's point 244. So it's under part (i) there. If you wouldn't mind just reading out the, the order that was imposed by the authority, if you can read that.

A: "Imposed under section 57H(2)(e) of the Act, condition of club licence, the club or employees will undertake annual training each calendar year, commencing 2016, on appropriate workplace conduct such as training the(00:01:37) provide."

Q321: Do you recall participating in that training?

A: Yes.

Q322: O.K. So how often did you do that training?

A: Mmm, ah, would've been in '16. I'm not sure if it was every year after that, but - - -

Q323: Do you recall what the most recent one was, so when you last did it?

A: Not sure. I think, whether last one, whether Kristen Gower done that because they didn't get anyone in to do it, whether she just done a quick summary of it, I'm not, not a hundred per cent sure when, when the last one was.

Q324: O.K. So what can you tell me about the training that you did as per that condition? So what did the training involve, basically?

A: Mmm.

Q325: What topics did it cover, do you remember?

A: Um, bullying. Ah, inappropriate behaviour. Um, I'm not sure what, what other topics.

...

Q336: Do you recall what was talked about in the training?

A: What, bullying, discrimination, harassment, yes.

Q337: O.K. Did it discuss what sexual harassment can be considered as, do you recall?

A: Don't recall.

42. The Complainant further contends, at paragraph 23, that Mr Taylor advised inspectors that the incident with the Employee arose in the context of a Club cricket function. A chicken dish had not been cooked properly and a pavlova had not been ordered as requested. Mr Taylor said that the Employee and Mr Martin, a Club functions supervisor, had been arguing about these problems during the function and the Employee was "very, very upset".
43. The Authority notes that Mr Taylor provides this account at question 36 of the Taylor Interview (E02), while noting that the allegations about the two staff members arguing and the Employee's emotional state were matters that Mr Taylor says were relayed to him by another man at Mr Taylor's table during the function.
44. The Authority further accepts, as contended at paragraph 24 of the Complaint, that Mr Taylor "contended initially" (at question 36 of the Taylor Interview (E02)) that he "lightly tapped [the Employee] on the, the back and said, "Don't worry..., everything will be sorted out on Monday"". However, after being shown the CCTV footage, Mr Taylor stated (at question 90 of the interview) that he "apparently...touched [the Employee] on the backside" but "meant to hit her on the, maybe on the hip or on the, on the back".
45. The Complainant further contends at paragraph 25 that Mr Taylor maintained, during the course of his interview, that he did not see anything wrong with his actions. This is apparent from question 89 of the Taylor Interview (E02) where Mr Taylor states:

...I don't think I done anything wrong, because I was treating her as I would treat a lot of other people. I've been in, involved in cricket for over sixty-odd years, and when someone does something good or that, you might, you know, pat on the back. And you look at any sport now, when they say they've done something right or wrong, often there is a little tap on the backside, which I may be from the old school, but that's my way of, ah, saying not to worry about it, everything will be all right.

46. The Complainant further alleges at paragraph 26 of the Complaint that Mr Taylor disputed the findings made by the Club board and the Employee's own statements relating to the force of the alleged physical contact. The Authority accepts this on the basis of question 75 of the Taylor Interview (E02):

No. Did not, because in her statement or something, it was I slapped her that hard it caused her pain. She did not move. And if I hit anyone with any force, I think they would've turned around and said, "Why did you do that," or jumped and rubbed the, the spot, if it really caused pain. But nothing, nothing happened.

47. The Complainant further contends at paragraph 27 that Ms Tina Nguyen (Mr Taylor's support person at the interview) "directed" certain questions to Mr Taylor during the interview, particularly going to his understanding of the severity of the conduct.

48. The Authority accepts this observation on the basis of question 289 of the Taylor Interview (E02):

Q289: *O.K. So if you don't mind just signing and dating that document as well, that's again just to show that we showed you that document in this interview. Thank you.*

TINA NGUYEN

But would it be fair to say that you, having been through that course and all that, that people would expect you to, to know that, you know, touching or tapping somebody, that that, that, that would be, you know, um, that you shouldn't be doing it? Do you, did you know that? Did you realise that?

A: *No.*

TINA NGUYEN

And would you be doing it again?

A: *No.*

TINA NGUYEN

I mean, you're saying you don't agree that you did that, but you did.

A: *Yeah. But that was my way of saying not to worry about it, everything was going to be fixed up through the week.*

TINA NGUYEN

But having sat through the course, this course here, do you, don't you think that that way could be construed as, you know, a part of, ah, I don't know, bullying or with, in a negative way?

A: *Well, some, some people could look at it that way. Other people would look at it a different way.*

TINA NGUYEN

You don't see it that way?

A: *No.*

TINA NGUYEN

Would you be doing it again?

A: *Not, not now, no, no, because it's got me into this situation, so why would I do it again?*

49. The Authority notes, as contended in paragraph 28 of the Complaint, that when asked whether he would engage in the same conduct, Mr Taylor stated that he would not - "because it's got me into this situation, so why would I do it again?".
50. At paragraph 29 the Complainant contends that Mr Taylor acknowledged that he had been a Club director during the time of the two previous L&GNSW disciplinary complaints. He took the position that the Club's decision to remove him as President was influenced by those previous matters and by disagreements with other Club board members. Mr Taylor did not accept the Club's assertion that he had interfered in the Club's administration by highlighting issues with the food service at the cricket function and by speaking with Mr Martin and the Employee about these issues.
51. The Authority accepts that Mr Taylor took these positions at questions 266 to 268, 290 to 291, 299 and 253 to 255 of the Taylor Interview (E02):

Q266: *--- aggravating factor? Also, you are aware that behaviour by a former club CEO, and on other occasions by a former club president, in relation to staff members has been identified as seriously inappropriate and unlawful and has led to legal actions including complaints against the club and the addition of an extra condition on the club's liquor licence for its main premises. And do you agree that's an aggravating factor?*

A: *Yeah.*

Q267: *Yeah. And finally, that you were a director of the club at all times material to those occasions of inappropriate behaviour by a former club CEO and a former club president.*

INSPECTOR MORTIMER

Q268: *Do you agree with those ---*

A: *Yeah.*

...

Q290: *O.K. So what's your view on the outcome of the matter, so what happened?*

A: *Well, I, I don't think, I don't think I was fairly treated. I, I've been a member of that club for forty-nine years, never had a, a mark against my name. And if I did do something wrong, maybe some form of punishment. But to expel me after forty-nine years and where two previous, one CEO and the other one president, even though they were convicted and, and expelled, oh, ah, ah, um, from Department of Gaming and Racing, were banned from holding a position in the club for three years, they were still allowed to keep their membership. So I don't, I just think it is unfair, the way that I have been treated. And most probably I shouldn't say it, but I think the decision was made on a personality basis than maybe on all the evidence that was presented.*

Q291: *Mmm. So what do you mean by that, "on a personality basis"?*

A: *Well, certain board members don't see eye to eye with me.*

...

Q299: *Yeah, that's right. So we've got, obviously, all these documents that we've got here are what the club's position is, so as much as you want to give as your position and your opinion on what happened and that's what we're, we're here to find out.*

A: *Well, the vice president is for one, Les Eldridge. He, he does not like, like me. And he has always stood against me to be president, as vice president, and he's not very happy, because he can never, ever beat me for, even when we had previous presidents, I stood as vice president and against him and I always beat him. And then there's, ah, Lindsay, Lindsay Sharp. Um, I'd say there's maybe two,*

two or three others that want to get on the board and want to, not to get on the board, that are already on the board and they want to be president. And that would be Ronnie Moore and could also be Wally Robinson. Ah, and there's another chap that wasn't there. And I, I have a lot of, um, 'cause I try to stick to the rules of the club, meetings and, and stuff, and I often have run-ins with Pat Campbell. But he was not at this, that meeting, he was overseas, apparently. But I'd say that they are the main ones that might have some reason to get rid of me so they can better, benefit, benefit themselves.

...

Q253: *O.K. So just draw your attention to page 2 of that document. So it sets out there, just towards the bottom half, says "Findings against G Taylor", says the resolutions there. So what can you tell me about those and your view on those resolutions?*

A: *Well, first one I disagree with.*

Q254: *O.K. Why is that?*

A: *Because I don't think I interfered with the operation of administration affairs of the club.*

Q255: *Mmm.*

A: *By me pointing out that this chicken was not suitable to eat and what was ordered as the dessert was not there, I don't see how I've interfered with administration of the club.*

52. The Complainant further contends at paragraph 30 of the Complaint that Mr Taylor advised he did not *chair* the meeting of the Club Compliance Committee on 21 May 2019, as asserted in the timeline provided by the Club (Exhibit E06).
53. The Authority notes that at question 226 of the Taylor Interview (E02) he states "I was not chairman" of the Committee but concedes during questions 226 to 232 that he was a *member* of the Committee, a fact noted by the Board in the Club Meeting Minutes (E05).

Further Statements Made by Mr Taylor to L&GNSW

54. At paragraph 21 of the Complaint it is contended that on 16 August 2019, Mr Taylor provided further information to L&GNSW by email regarding the alleged incident and the action taken against him by the Club. The Authority notes this further information in the Taylor 16 August 2019 Email (E13).
55. The Authority further accepts, as contended in paragraph 31, that Mr Taylor also made certain allegations relating to the *conduct of gaming* at the Club. The Authority notes that these allegations do not fall within the scope of this Complaint and accepts the Complainant's advice that these allegations are subject to separate investigation by Liquor and Gaming Compliance staff.
56. The Complainant contends at paragraph 32 of the Complaint that, in this email Mr Taylor reiterated his belief that the Board's decision to remove him as President and expel him from membership was the product of "ulterior motives" on the part of certain other Board members who sought to "get rid of" him to assume his position as President. The Authority accepts that Mr Taylor takes these positions, as apparent from Exhibit E13.
57. As contended by the Complainant, Mr Taylor claims to have made internal complaints with Mr Belevski and Ms Kristen Gower (the Chief Operating Officer of the Club). These appear from the Taylor 16 August 2019 Email to concern gambling practices and promotions at the Club and the conduct of a band

booked by the Club. Mr Taylor claims that these issues had not been addressed and as a consequence other Board members had a “vested interest” in removing him from the Club and ensuring that he does “not set foot inside the club”. The Authority accepts that Mr Taylor advances these claims in his email at Exhibit E13

58. The Complainant further contends at paragraph 33 of the Complaint that Mr Taylor appears in this email to have “changed his view of how his conduct should be characterised”.
59. The Authority notes this apparent change of perspective in the Taylor 16 August 2019 Email (E13) as follows:

I realise that my action by patting [the Employee] on the back can be taken in the wrong way and for that I apologise unreservedly. I know now that that was not an acceptable nor appropriate manner to express my re-assurance to [the Employee] that she would not get into trouble over the catering mix-up (at least not from me as I was not going to be making a complaint). In hindsight, I should have just re-assured her by words and left it at that. I would never intentionally hurt [the Employee], physically or emotionally, just as I would never intentionally or knowingly hurt any other persons.

*...
I accept my own actions in trying to re-assure [the Employee] (albeit misguided and lacking in wisdom) have cause for concern and have caused [the Employee] to doubt my sincerity in trying to re-assure her. But I re-iterate I did not cause her physical pain. My actions made her uncomfortable, I recognise that now. For that I am very sorry that I have caused her stress. In hindsight, when [the Employee] acted so stressed and worried about the mistakes with the dinner that night, I should have just left it alone and just re-assure [the Employee] by words rather than by actions. I definitely did not mean any harm to her or mean to overstep ... I am truly sorry that through a huge dose of stupidity and a monumental lack of judgement, I have not only distressed [the Employee] but also has turned my own life upside down. I am barely able to cope but at the same time, I stand by everything that I have said here.*

60. The Authority further accepts the Complainant’s contention at paragraph 34 of the Complaint that, on the basis of these statements, Mr Taylor appears to have returned to his original account of the incident. That is, the physical contact was to touch the Employee on the back, despite all evidence to the contrary.

Further Information and Evidence Provided by the Employee

61. The Complainant contends at paragraph 35 of the Complaint that on 19 June 2019, Mr Kennedy voluntarily provided L&GNSW with the Employee Legal Letter (E11) prepared by the Employee’s solicitor, Mr Carlos Jaramillo of Williams Roberts Lawyers.
62. The Authority accepts, as contended, that this letter outlined a settlement offer made by the Employee to the Club and described how the incident was viewed from the Employee’s perspective and the alleged effect it had upon her. It makes the following claims:
 - immediately following the incident “she felt violated and in a state of disbelief” and was “highly anxious as she was unsure of what to do about the incident”.

- she has experienced “a general feeling of being anxious and panicky” including experiencing what she describes as panic attacks.
 - her ability to sleep has been affected.
 - she “does not feel at ease or relaxed”.
 - she feels that “her self-esteem is reduced”.
 - it has apparently affected her “willingness to engage in affectionate contact or conduct” and her relationship with her partner has been affected as a result.
 - the conduct “affected her ability to study and concentrate for and on upcoming exams and assessments at University”.
63. The Authority accepts, as contended at paragraph 36, that the Employee Legal Letter also confirms that the Employee had lodged a worker’s compensation claim in respect of the incident and was to be the subject of a Mental Health Treatment Plan.
64. At paragraph 37 of the Complaint it is contended that on 24 June 2019, L&GNSW Inspectors contacted Mr Jaramillo, who advised that he would seek instructions whether his client had reported to NSW Police or wished to participate in the L&GNSW investigation. Mr Jaramillo subsequently contacted L&GNSW on 12 August 2019 to advise that the Employee was prepared to provide a statement.
65. The Authority accepts this advice on the basis of the correspondence at Exhibit E12 from L&GNSW Compliance Officers dated 24 June 2019, 3 July 2019 and 10 July 2019 and the Employee Legal Email dated 10 July 2019 advising that:
- “[The Employee] has not reported to the Police
At this stage, [the Employee] is seeking treatment as a result of the incident. She does not have any medical advice to the effect that she is either capable to participate or that it would be wise for her to do so. In turn, she does not wish to participate at this time. Her treatment continues and this position may change. If it does, we will inform you”.*
66. While a copy of correspondence from Mr Jaramillo to L&GNSW dated 12 August 2019 (as mentioned in paragraph 37 of the Complaint) was not provided with the Complaint Material, the Authority accepts the Complainant’s advice at paragraph 38 that on 20 August 2019, the Employee attended L&GNSW offices and swore the Employee Affidavit, which is provided at Exhibit E14.
67. This Affidavit confirms the Employee’s duties on the night of the incident as assisting management of a Club function alongside the Functions Supervisor, Mr Martin.
68. The Complainant contends at paragraph 39 of the Complaint that “[i]n the majority”, the Affidavit substantiated the account provided by Mr Taylor regarding his concerns as to food service at the cricket function. The Employee also attests to observing Mr Taylor acting in an inappropriate manner towards another guest of the 25 May 2019 function (also a Club staff member) by “sort of rubbing her arm, shoulders and lower back”. The Employee alleges that she raised her concerns with Mr Martin about that other matter, who stated:

"What can you do? He's the President, mate".

69. The Authority accepts this summary of the Employee Affidavit.
70. At paragraph 40 the Complainant refers to and extracts the following paragraphs 30, 31, 34 and 35 from the Employee Affidavit which attest to Mr Taylor's misconduct against the Employee:

30. He then took his right hand and slapped me twice on the bottom. The slap was fairly low on my bottom towards the middle. The slap was pretty hard to the point that I was surprised no one heard it. If they did hear it they didn't say anything. It was a slapping sound.

31. I froze and can't remember how the conversation ended or how everyone ended up moving from the spot. I was completely shocked.

[...]

34. I went into the hallway and called my boyfriend to tell him what happened. I also messaged my friend Daisy Tagiilima to tell her what happened. Daisy also works at the club as a receptionist.

35. After I spoke with Daisy I continued cleaning until I had enough of being there. I kept thinking about what just happened. I couldn't believe it. I decided to leave. I was very upset and felt like a piece of meat. I didn't give George permission to touch me...

71. The Complainant further contends at paragraph 41 (and the Authority accepts on the basis of paragraphs 45 to 52 of the Employee Affidavit (E14)) that the Employee has attested to suffering "anxiety" at work during the week after the incident and had a "panic attack in the office and the bathroom". The Employee claims that as a result of this, she determined to report the incident to Mr Belevski.

Findings on Ground of Complaint

72. The Authority accepts, as alleged at paragraph 49 of the Complaint, that the CCTV Footage (E03) clearly shows the alleged incident involving physical contact between Mr Taylor and the Employee, in that he strikes her twice on the buttocks.
73. At paragraph 50 the Complainant contends that Mr Taylor equated this contact as something that occurs commonly in sport when someone has done something wrong, adding "I may be from the old school, but that's my way of, ah, saying not to worry about it, everything will be all right".
74. The Authority accepts that Mr Taylor's took this position at question 89 of the Taylor Interview (E02), which is extracted in part above. The Authority further accepts, as contended at paragraph 50, that Mr Taylor maintained generally during his interview that the conduct was ok, or not inappropriate.
75. As contended at paragraph 51 of the Complaint, the Employee's evidence contradicts Mr Taylor's account of the conduct. The Employee provides sworn evidence in the Employee Affidavit that she "didn't give [Mr Taylor] permission to touch [her]". The Authority accepts that this alone establishes that Mr Taylor's conduct was inappropriate. This is particularly so when considered in

the context of an ordinary workplace environment, exacerbated by the relative positions of power held by Mr Taylor and the Employee within the Club.

76. At paragraph 52 of the Complaint the Complainant submits that the Employee's representations regarding the impact of the misconduct make it clear that this incident cannot be dismissed as trivial, as Mr Taylor appears to contend during his interview.
77. The Authority is satisfied, on the basis of the Employee Legal Letter (E11) and paragraph 35 of the Employee Affidavit that the Employee did experience some physical pain and some shock and anxiety and feeling "like a piece of meat" as a result of the conduct. While the physical pain may have been fleeting this non-consensual conduct, perpetrated by a person in authority at the Club, at a workplace function, must have been a source of ongoing humiliation and cannot be dismissed as trivial.
78. At paragraph 53 of the Complaint the Complainant submits that while the misconduct *does not directly call into question Mr Taylor's honesty and knowledge* as a member of a governing body, it informs an assessment of Mr Taylor's *ability and character* and, by extension, his overall fitness to be a member of a club's governing body. The Authority accepts this submission.
79. The Authority further accepts, as submitted in paragraph 54, that it is particularly concerning that Mr Taylor was a member of the governing body during both the previous disciplinary complaints which resulted in action taken by the Authority against the Club during 2014 and 2016.
80. Mr Taylor should have been aware of the standard of conduct that he was expected to observe, particularly given the problematic regulatory history of this Club, including past misconduct by two men in positions of seniority at the Club.
81. The Authority further accepts the submission at paragraph 55 of the Complaint that an expectation of knowledge of the Club's regulatory history on the part of a Club director is reinforced by Mr Taylor's own participation in mandated ADB training courses on acceptable workplace conduct during 2017 and 2018.
82. The Authority finds it somewhat telling, as contended in paragraph 55, that during the course of his interview with inspectors, Mr Taylor did not appear to recollect very much about what was covered by that training, other than the general topics discussed. He is either not responsive or unaware of the subject of sexual harassment. This is apparent from Mr Taylor's responses to questions 86 to 88, 325 to 327 and 331 to 337 of the Taylor Interview (E02). Mr Taylor's responses to questions 86 to 88 are extracted above. His statements at questions 324 to 327 and 331 to 337 are as follows:

Q324: O.K. So what can you tell me about the training that you did as per that condition? So what did the training involve, basically?

A: Mmm.

Q325: What topics did it cover, do you remember?

A: Um, bullying. Ah, inappropriate behaviour. Um, I'm not sure what, what other topics.

Q326: O.K. Was there anything else you wanted to ask about that, Alex?

INSPECTOR STEWART-MOORE

Q327: *Well, what did it, what did it say inappropriate behaviour was, do you recall?*

A: *No.*

...

Q331: *Mmm. All right, so I'll show you a couple of documents together, which will just be, so one of them's a certificate that was issued to you by the Anti-Discrimination Board of New South Wales, which is dated the 9th of April, 2018. For the purpose of the record, that is GT4. Also show at the same time the slides that we've obtained from the club in relation to that, the presentation on training, which I'll number GT5. There you are. So do you recall that training identified in the certificate?*

A: *(NO AUDIBLE REPLY)*

Q332: *Any more than what you've said previously?*

A: *Mmm, no.*

Q333: *Do you recall if it covered appropriate workplace conduct?*

A: *It would've covered everything you've got on here.*

Q334: *Do you remember that being said, though, or that being talked about?*

A: *I don't, I don't - - -*

Q335: *So you don't recall any discussion about appropriate workplace conduct?*

A: *Well, yes. Ah - - -*

Q336: *Do you recall what was talked about in the training?*

A: *What, bullying, discrimination, harassment, yes.*

Q337: *O.K. Did it discuss what sexual harassment can be considered as, do you recall?*

A: *Don't recall.*

83. The Authority further accepts, as contended at paragraph 55 of the Complaint, that even if Mr Taylor retained what was relayed to him during the mandatory ADB training, he has not demonstrated the wherewithal to implement this training in a meaningful way, to prevent the conduct that he engaged in with respect to the Employee.
84. The Authority further accepts, as contended in paragraph 56 of the Complaint, that a person holding a senior leadership role in a registered club – as Mr Taylor did at the time of the incident – should demonstrate the ability to understand and observe appropriate workplace conduct, especially after repeated workplace training.
85. Moreover, the Authority accepts the Complainant's contention that there is an expectation that a person in the role of Director should have the ability to lead by example, and positively influence the culture at a registered club, by modelling appropriate workplace conduct.
86. The Complainant contends at paragraph 57 that during the Taylor Interview (E02), Mr Taylor only appears to have expressed remorse that he found himself "[in] this situation" and does not appear to take responsibility for his actions or the impact they had on the Employee, though he does state that he would not intentionally "belittle her or do anything to...cause her any pain".
87. The Authority finds that Mr Taylor expressed *some* remorse when he stated at question 289 of the Taylor Interview (E02) "Not, not now, no, no, because it's got me into this situation, so why would I do it again?".

88. The Authority finds that Mr Taylor did state at question 52 of the Taylor Interview (E02) “there’s no way I would harm her in any way. And I would never belittle her or do anything to cause, cause her any pain”. That is, his remorse was not solely couched in terms of regret for becoming the subject of disciplinary action.
89. However, the Authority accepts the Complainant submission in paragraph 57 that while Mr Taylor appears to have found some remorse for his actions in his later email (Taylor 16 August 2019 Email (E13)), he continued to doubt the Club’s board and executives motives for responding in the manner that they did.
90. The Authority accepts this contention on the basis of Mr Taylor’s statements in that email. The evidence establishes that the Club’s disciplinary action was a response to the inappropriate, if not indecent, physical conduct with a junior employee in the workplace. There is insufficient evidence to support Mr Taylor’s claims that he was disciplined by the Club due to “ulterior motives”. These claims do not engage the substance of the internal complaint brought against Mr Taylor, which he seeks to minimise.
91. The Authority further accepts the Complainant’s contention in paragraph 58 that Mr Taylor’s attitude to the offending conduct gives rise to legitimate concerns that such conduct may recur in the future. It points to a sustained lack of understanding and acceptance that his conduct was quite obviously inappropriate.
92. In conclusion, the Authority is not satisfied that Mr Taylor has demonstrated the knowledge, ability and diligence expected of a reasonably competent club director, particularly in the circumstances of *this* Club - with its persistent problematic history of inappropriate conduct among senior office holders, with a licence encumbered with a condition mandating training to address these very matters.
93. In light of its findings the Authority accepts the conclusion advanced at paragraph 59 of the Complaint that Mr Taylor lacks the *ability and character* required of a member of a club’s governing body and is not a fit and proper person to act as such.
94. The Ground of Complaint is established.

ORDERS SOUGHT IN COMPLAINT

95. The Complainant seeks the opportunity to make further submissions on the appropriate disciplinary action should the Authority find the Ground of Complaint to be established.
96. The Complainant expresses a “preliminary view” at paragraph 61 of the Complaint that disciplinary action should include:
- a) A monetary penalty (at a quantum not specified by the Complainant).
 - b) An order for Mr Taylor to pay any costs incurred by the Secretary as a result of the investigation conducted (the quantum not yet specified).

- c) An order for Mr Taylor to pay any costs limited to *disbursements* incurred as a result of the investigation conducted (the quantum not yet specified).
- d) Pursuant to section 57H(2)(g) of the Act, an order declaring that Mr Taylor is ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body (or both of those positions) of the Club, and all other registered clubs for such period as the Authority deems appropriate.

FINAL SUBMISSIONS ON DISCIPLINARY ACTION

97. On 14 April 2020 the Authority sent a detailed letter (“Findings Letter”) to the Complainant and Mr Taylor notifying its findings on the matters specified in the Complaint and advising that the Ground of Complaint had been established. The Authority invited final written submissions confined to the question of what, if any, disciplinary action it should take on the basis of those findings.
98. On 21 April 2020 a submission was received from the Complainant (“Complainant Final Submission”) proposing that the Authority take the following disciplinary action:
- disqualify Mr Taylor from standing for election, being appointed to, or holding office in, the position of secretary and/or member of the governing body of the Club, and/or any other registered club for a period not less than 10 years or such period as the Authority considers appropriate.
 - order Mr Taylor pay a monetary penalty in the amount that the Authority deems appropriate.
 - order Mr Taylor pay the amount of \$6,745.00, being the costs incurred by the Secretary of the Department of Customer Service in carrying out the investigation. [A schedule of the Secretary’s costs accompanies this submission].
99. At the date of this letter, no further submissions were made by Mr Taylor.

DECISION ON DISCIPLINARY ACTION

100. The Authority’s disciplinary jurisdiction provided by Part 6A of the Act is protective, rather than punitive in nature. As held by the New South Wales Supreme Court in *Seagulls Rugby League Football Club Ltd v Superintendent of Licences* (1992) 29 NSWLR 357 (at paragraph 373):
- The over-riding purpose of the jurisdiction is the protection of the public, and of members of clubs by the maintenance of standards as laid down in the Act.*
101. Nevertheless, as observed by Basten JA of the New South Wales Court of Appeal in *Director General, Department of Ageing, Disability and Home Care v Lambert* (2009) 74 NSWLR 523 (“*Lambert*”), while disciplinary proceedings are protective, that is not to deny that orders made by disciplinary bodies may nonetheless have a *punitive effect*. His Honour observed that a Court (and hence a regulatory decision maker such as the Authority) should be mindful that a protective order is reasonably necessary to provide the required level of public protection.

102. At paragraph 83 of the judgment in *Lambert*, Basten JA states that the “punitive effects” may be relevant to the need for protection in that:

...in a particular case, there may be a factual finding that the harrowing experience of disciplinary proceedings, together with the real threat of loss of livelihood may have opened the eyes of the individual concerned to the seriousness of his or her conduct, so as to diminish significantly the likelihood of repetition. Often such a finding will be accompanied by a high level of insight into his own character or misconduct, which did not previously exist.

103. At paragraph 85 of the judgment, Basten JA observes that:

...the specific message of the disciplinary cases explaining that the jurisdiction is entirely protective is to make clear that the scope of the protective order must be defined by the reasonable needs of protection, as assessed in the circumstances of the case.

104. The Authority further notes that when determining the nature of the appropriate disciplinary action, the conduct of the respondent to a complaint *up until its final determination* is relevant and should be taken into account: *Sydney Aussie Rules Social Club Ltd v Superintendent of Licences* (SC (NSW) Grove J, No. 16845 of 1990, unreported BC9101830).

105. The Authority notes the observations of the South Australian Supreme Court in *Sobey v Commercial and Private Agents Board* 20 SASR 70 where Walters J held:

"In my opinion what is meant by that expression is that the Applicant must show not only that he is possessed of a requisite knowledge of the duties and responsibilities evolving upon him as the holder of a particular licence ... but also that he is possessed of sufficient moral integrity and rectitude of character as to permit him to be safely accredited to the public ... as a person to be entrusted with the sort of work which the licence entails"

106. The Authority has had regard to the objective seriousness of Mr Taylor’s conduct, the need for disciplinary action to provide specific and general deterrence and that such conduct will be met with proportionate action and appropriate sanctions.
107. The Authority notes that Mr Taylor has not elected to make any submissions in response to the show cause notice, or the Findings Letter issued in respect of this Complaint.
108. The Authority accepts the Complainant’s uncontested submission that the Authority’s findings highlight that Mr Taylor demonstrated a lack of knowledge regarding appropriate conduct, particularly considering the history of misconduct at this Club by former senior officers and the training previously ordered by the Authority.
109. The Authority accepts that a significant period of disqualification from being eligible to occupy the regulated roles of a club secretary or member of a club’s governing body will provide an appropriate and proportionate protective outcome and provide the specific and general deterrence required in the public interest.

110. The Complainant refers in the Complainant Final Submission to the Martin Complaint Decision noting that the conduct was “not dissimilar” and that the Authority in that matter “imposed the maximum disqualification period available at the time, being three years”.
111. On the question of disciplinary action, the Complainant emphasizes the recent history of the Club, in particular the disciplinary proceedings giving rise to the Martin Complaint Decision and the O’Brien Complaint Decision. The Authority accepts the Complainant’s uncontested submission that the facts and seriousness of those previous matters were well known to Mr Taylor, who was a long-term member of the Club’s board. He was aware of the abhorrent nature of that previous conduct and collective damage it caused to the Club and broader industry’s reputation.
112. The Authority finds that Mr Taylor’s conduct in question was, on the evidence and material before the Authority, a once off incident of inappropriate sexual misconduct in the workplace. There is no other evidence going to a consideration of Mr Taylor’s character.
113. Considered in isolation, this conduct was not as serious as the previous two complaints made in relation to the Club. Nevertheless, the matter warrants a substantial disciplinary response when considered in the context of this Club’s recent history of sexually offensive conduct, perpetrated by the persons occupying very senior roles, against junior employees. While Mr Taylor did not contravene the training condition, his conduct undermines the purpose of that condition, which was imposed by the Authority to remedy what is apparently an ongoing cultural problem.
114. Having regard to the facts and circumstances of this case and noting that Mr Taylor has not elected to make any response to this Complaint, the Authority finds that a period of disqualification of 5 years is an appropriate sanction, by way of specific and general deterrence. It is extraordinary that a community enterprise of this scale and financial resources has become subject to yet another disciplinary complaint of this nature regarding a person in a senior leadership role.
115. The Authority has decided not to impose a monetary penalty upon Mr Taylor, noting that he no longer holds a regulated role with this or any other registered club and will be unable to do so for another 5 years. The Authority has taken into account the voluntary nature of his role and the fact that Mr Taylor has been ordered to pay the Secretary’s costs as a further disciplinary action.
116. Noting that Mr Taylor has not contested the Complainant’s request for payment of costs, the Authority finds it appropriate for Mr Taylor to pay the Secretary’s costs on the investigation. The Complaint has been established and the Secretary’s costs are adequately specified and reasonable in the circumstances.

ORDERS

117. The Authority makes the following orders:
118. Pursuant to section 57H(2)(g)(i) and (ii) of the Act – Mr Taylor is **declared ineligible** to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body (or both of those positions) of the Club, and all other registered clubs for a period of five years from 1 July 2020.
119. Pursuant to section 57H(2)(i)(i) - Mr Taylor is ordered to **pay** the Secretary of DCS the amount of **\$6,745.00**, being the costs on the investigation giving rise to this Complaint, by no later than 28 days after 1 July 2020.

REVIEW RIGHTS

120. Pursuant to section 57L of the Act, an application for review of this decision may be made to the New South Wales Civil and Administrative Tribunal (“NCAT”) by the Complainant, the Club or any person against whom any disciplinary action has been taken, by no later than 28 days of the Authority’s decision.
121. For more information, please visit the NCAT website at www.ncat.nsw.gov.au or contact the NCAT Registry at Level 9, John Maddison Tower, 86-90 Goulburn Street, Sydney.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P Crawford', is enclosed in a thin blue rectangular border.

Philip Crawford

Chairperson

For and on behalf of the Independent Liquor and Gaming Authority

Schedule – Complaint Material

1. A one-page cover letter signed by the Complainant dated 14 October 2019 (“Cover Letter”).
2. A fourteen-page complaint submission letter (“Complaint”) specifying the Ground of Complaint and accompanied by a list of fifteen Exhibits, described below as “E01” to “E15”.
3. Exhibit E01: Onegov licence record for the Club as at 26 August 2019 (“Licence Record”).
4. Exhibit E02: Transcript of interview between Liquor and Gaming New South Wales (“L&GNSW”) inspectors and Mr Taylor on 31 July 2019 (“Taylor Interview”).
5. Exhibit E03: CCTV footage from inside the Club dated 25 May 2019 time stamped 09:53:21.438 PM (AEST) to 09:55:59.041 PM (AEST) (“CCTV Footage”).
6. Exhibit E04: Letter from the Chief Executive Officer (“CEO”) of the Club, Mr B Belevski to Mr Taylor dated 6 June 2019 titled *Notice of Disciplinary Hearing and to Show Cause* (“the Club 6 June 2019 Letter”).
7. Exhibit E05: Meeting Minutes from the Club’s 14 June 2019 Board Meeting dated 19 June 2019 (“the Club Meeting Minutes”).
8. Exhibit E06: Email from Mr David Kennedy of Colin Biggers & Paisley Lawyers (acting on behalf of the Club) to the Complainant dated 6 June 2019 providing a timeline of events and advising that the Club is in the process of settling a proposed internal disciplinary hearing notice to Mr Taylor (“the Club 6 June 2019 Email”).
9. Exhibit E07: Email from Mr David Kennedy to L&GNSW staff dated 17 June 2019 notifying L&GNSW of the Club’s decision at its disciplinary hearing (“the Club 17 June 2019 Email”).
10. Exhibit E08: The Authority’s decision and statement of reasons letter dated 8 September 2016 in relation to a previous complaint against Mr Stan Martin, the Club’s former president, under Part 6A of the Act (“Martin Complaint Decision”).
11. Exhibit E09: Certificates issued to “G. Taylor” by the Anti-Discrimination Board of NSW (“ADB”) dated 26 May 2017 for attending *Discrimination, Harassment and Bullying Prevention Training* and 9 April 2018 for attending *Bullying, Discrimination and Harassment Prevention Training For Directors and Executives* (“ADB Certificates”).
12. Exhibit E10: *Discrimination, Sexual Harassment and Bullying – Directors and Executive Management* training presentation provided to the Club by the ADB (“ADB Presentation”).
13. Exhibit E11: Letter from Mr Carlos Jaramillo of William Roberts Lawyers, acting on behalf of a 24-year-old female employee (now former employee) of the Club (“the Employee”) addressed to the Club dated 13 June 2019 regarding *Dispute with Cabra-Vale Diggers Club* (“Employee Legal Letter”).
14. Exhibit E12: Email from William Roberts Lawyers to L&GNSW staff dated 10 July 2019 regarding Police involvement (“Employee Legal Email”).
15. Exhibit E13: Email from Mr Taylor to L&GNSW staff dated 16 August 2019 providing additional information that he wants added to his L&GNSW interview (“Taylor 16 August 2019 Email”).
16. Exhibit E14: Affidavit from the Employee dated 20 August 2019 (“Employee Affidavit”).
17. Exhibit E15: The Authority’s *Notice of Decision and Disciplinary Action* regarding an earlier disciplinary complaint in relation to the Club’s former secretary, Mr William O’Brien, dated 28 March 2014 (“O’Brien Complaint Decision”).