

NSW Government response to the review of the accountability provisions of the *Registered Clubs Act 1976*

Retaining accountability provisions to promote best practice and good governance

Recommendation	Government response
<p>Recommendation 1</p> <p>Sections 41C, 41J to 41V of the Act, and clauses 20, 23 to 25 of the Regulation should be retained in their present form for the time being (subject to the advancement of other recommendations made in this report).</p>	<p>Supported in part</p> <p>The Government will retain provisions that deal with disposal by clubs of real property (sections 41J and 41Q of the Act and clause 23 of the Regulation) and termination of other certain contracts (sections 41R - 41T of the Act) in their current form.</p> <p>Other provisions under this recommendation will be amended by moving them into the Registered Clubs Accountability Code, which will be prescribed under Regulation.</p>

Refining the accountability provisions to promote a more balanced approach

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<p>Recommendation 2</p> <p>Section 41D of the Act should be amended to provide that the disclosure of an interest in a hotel by a director or top executive is only required where the hotel is situated within 40km from a club's premises.</p>	<p>Supported</p> <p>The Government supports this amendment. This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>
<p>Recommendation 3</p> <p>Section 41E of the Act should be amended to increase the \$500 threshold applying to the value of gifts and remuneration from an affiliated body to \$1,000.</p>	<p>Supported</p> <p>The Government supports changes to accountability provisions that more closely correspond with the risk associated with the obligation.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>

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<p>Recommendation 4</p> <p>Clause 18 of the Regulation should be amended to provide that the threshold applying to the remuneration of top executives is aligned to the high income threshold set by the Fair Work Commission in accordance with the <i>Fair Work Act 2009</i> (Cth).</p>	<p>Supported</p> <p>The Government supports this amendment which will enhance the ongoing effectiveness of clause 18.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>
<p>Recommendation 5</p> <p>Clause 19 of the Regulation should be amended to increase the \$500 threshold applying to the value of gifts from a person or organisation that is party to a contract with a club, to a new threshold amount of \$1,000, and clarify that this threshold also applies to remuneration.</p>	<p>Supported</p> <p>The Government supports changes to accountability provisions that more closely correspond with the risk associated with the obligation.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>
<p>Recommendation 6</p> <p>Clause 21 of the Regulation should be amended to extend the period for quarterly financial statements to be made available to club members after being adopted by the board from 48 hours to seven working days.</p>	<p>Supported</p> <p>The Government supports this amendment, which gives clubs added flexibility in responding to members' requests.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>
<p>Recommendation 7</p> <p>Clause 22 of the Regulation should be amended to remove the requirement for a club to record details of any employee (including their salary) who is a close relative of a member of the governing body or top executive.</p>	<p>Supported</p> <p>The Government supports this change, which will reduce the deterrent effect on individuals seeking employment in the clubs industry that the current provision has caused.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>

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<p>Recommendation 8</p> <p>Clause 22 of the Regulation should be amended so that a club is required to ensure the employment of a close relative of a top executive or club director is first approved by the club's governing body.</p>	<p>Supported</p> <p>The Government supports this amendment, which will provide clearer guidance on the employment of close relatives of executives and directors.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>
<p>Recommendation 9</p> <p>Clause 22 of the Regulation should be amended so that the governing body of a club must ensure that a member of the governing body, who is the close relative of a prospective employee, does not participate in any decision to employ that person.</p>	<p>Supported</p> <p>The proposed amendment will improve transparency of decisions made by club governing bodies, as well as provide an additional check on potential conflicts of interest.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>
<p>Recommendation 10</p> <p>Clause 22 of the Regulation should be amended so that clubs are not required to record top executive remuneration contracts and details of the number of top executives by salary band, and make this information available to members.</p>	<p>Supported</p> <p>The Government supports this amendment.</p> <p>This amendment will be advanced through the development of the proposed co-regulatory model, with the provisions to be transferred to the Registered Clubs Accountability Code. Existing powers of enforcement will be retained.</p>
<p>Strengthening complaint and disciplinary action against individuals</p>	
Recommendation	Government response
<p>Recommendation 11</p> <p>Sections 57F(1) and 57F(3) of the Act should be amended to enable discrete complaint and disciplinary action to be taken individually against a club's secretary or a member of the club's governing body.</p>	<p>Supported</p> <p>The proposed change responds to recent failures of club governance in certain clubs, which have illustrated the need for strengthening of disciplinary powers to take action against individuals who breach accountability provisions.</p> <p>The proposed change builds on existing disciplinary powers against a club, and will improve the overall response to misconduct in registered clubs.</p>

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<p>Recommendation 12</p> <p>Section 57H of the Act should be amended to strengthen available disciplinary powers to enable the Independent Liquor & Gaming Authority to:</p> <ul style="list-style-type: none"> a) reprimand a club’s secretary or a member of the club’s governing body b) order a club’s secretary or a member of the club’s governing body to pay a monetary penalty that does not exceed \$11,000 within a specified period of time c) declare that a club’s secretary or a member of the club’s governing body is ineligible from holding a position in the office of a club for a period of time that the Authority thinks fit. 	<p>Supported</p> <p>The proposed change responds to recent failures of club governance in certain clubs, which have illustrated the need for strengthening of disciplinary powers to take action against individuals who breach accountability provisions.</p> <p>The proposed change builds on existing disciplinary powers against a club, and will improve the overall response to misconduct in registered clubs.</p>

Introducing a co-regulatory approach for accountability in the clubs industry

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<p>Recommendation 13</p> <p>The government should consult with peak industry bodies on a proposed co-regulatory approach and associated implementation plan to deliver a contemporary, effective and efficient accountability framework within the club sector. In particular, it should confirm industry support and seek feedback on the specific workings of the approach to ensure this outcome is achieved.</p>	<p>Supported</p> <p>The Government has undertaken consultation with ClubsNSW on the development of a co-regulatory approach for some low-risk accountability provisions under the Registered Clubs Act 1976 and Registered Clubs Regulation 2015.</p> <p>These provisions will be moved into the Registered Clubs Accountability Code that will be prescribed in the Registered Clubs Regulation 2015.</p> <p>The Independent Liquor & Gaming Authority will retain all existing enforcement powers under the proposed co-regulatory approach.</p>

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<p>Recommendation 14</p> <p>Subject to confirming industry support and obtaining feedback (as part of recommendation 13), the co-regulatory approach should be implemented so that it provides an alternative to existing accountability requirements in the Act. The approach would be subject to a review two years after its implementation to allow Government to consider the ongoing viability of the co-regulatory arrangements.</p>	<p>Supported</p> <p>The Government has undertaken consultation with ClubsNSW on the development of a co-regulatory approach for some low-risk accountability provisions under the <i>Registered Clubs Act 1976</i> and Registered Clubs Regulation 2015.</p> <p>These provisions will be moved into the Registered Clubs Accountability Code that will be prescribed in the Registered Clubs Regulation 2015.</p> <p>The Independent Liquor & Gaming Authority will retain all existing enforcement powers under the proposed co-regulatory approach.</p> <p>A review will be undertaken by Liquor & Gaming NSW two years after the commencement of the co-regulatory approach.</p>

Ensuring appropriate industry awareness of accountability provisions

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<p>Recommendation 15</p> <p>The review of the club industry training framework, to be undertaken in the second half of 2016, should consider whether the club director and manager training courses:</p> <ul style="list-style-type: none"> a) adequately cover all obligations on club directors and managers that relate to accountability and the potential ramifications of improper behaviour; and b) are structured and delivered appropriately to ensure training is meeting the needs of club directors and managers in regards to accountability. 	<p>Supported</p> <p>Liquor & Gaming NSW is currently reviewing the club industry training framework. This review will be finalised in the first half of 2018.</p>
<p>Recommendation 16</p> <p>The review of the club industry training framework should include consideration of whether enforcement and penalty options are necessary to support the operation of, and compliance with, the framework.</p>	<p>Supported</p> <p>Liquor & Gaming NSW is currently reviewing the club industry training framework. This review will be finalised in the first half of 2018.</p>