

ALLIANCE GAMBLING EXCLUSION REFORM BRIEFING NOTE

USE - FOR ANY ORGANISATION MAKING A SUBMISSION TO IMPROVE THE SELF- AND THIRD PARTY EXCLUSION SYSTEM IN NSW

The Alliance for Gambling Reform views the [current legislative reforms](#) as an opportunity to reset the culture of gambling in NSW. Clearly the conflict of interest arising from massive revenues from what are effectively mini-casinos in pubs and clubs means the community must set its expectations through legislation, as venue managements have failed to act responsibly and provide safe spaces for patrons and staff.

Currently, while venues are legally obliged to offer access to a self-exclusion system, and often belong to multi-venue exclusion schemes (eg ClubSafe, BetSafe), they are not legally obliged to honour any agreement. They face no fines if they allow someone to enter their venue to gamble, even if that person has signed a self-exclusion deed with that venue. There are no pathways for families to seek to have a relative excluded, which is a last resort measure when clear harm is being experienced. There are no pathways for autonomous self-exclusion.

Essentially, the self-exclusion system in NSW does not operate in a way that would help those people who are trying to do the right thing and take a break from gambling. The Alliance works with people who've experienced harm from gambling, and who desperately want the system to work, and have found it completely ineffective.

Fixing the broken self-exclusion system in NSW is a modest, simple and overdue reform. The reforms proposed are the beginning, not the end of reforms in NSW, but represent a good start.

The Alliance will be lobbying to achieve an effective exclusion system in NSW that includes features that help people to manage their gambling, provides families a pathway for intervention in extreme cases, ensures there are adequately trained staff in venues to interact with patrons in a respectful way, protects personal data, removes the venues from the management of these systems, and introduces meaningful financial penalties for the managers and owners of poker machine premises. As a welcome additional reform, the introduction of cashless gambling systems will help reinforce self-exclusion and also significantly reduce the opportunities to launder money through poker machines.

A genuine culture of Responsible Conduct of Gambling would already have ensured that venues acted to exclude people who had taken the protective measure of self-excluding, staff would be properly trained and supported, and incidents would have been recorded as they occur. Some of these features must be included in a reformed exclusion system. As recommended in a [recent report](#) to the NSW Government, reform of the entire RCG system in NSW is also overdue.

We recommend that any organisation or individual making a submission on the reforms should send a copy of their submission, with a cover note, to their local state MP. If an organisation cannot easily identify a local MP, we suggest sending a copy to their relevant Minister.

RECOMMENDATIONS FOR REFORM

Submissions can be lodged [via a form](#) or to an [email address](#). We recommend if time allows that organisations also provide answers to the [Liquor and Gaming Survey](#), outlining why your organisation sees this reform as beneficial, and providing statistics or anecdotal evidence i.e. your financial counsellors find that the majority of clients also experience gambling harm in their life or their families. We have prepared an example using the key points here as a guide (see at the end of note).

The Alliance is happy to advise on individual submissions and individual features of the reform (contact Kate da Costa, NSW Campaigner, kate.da.costa@agr.org.au)

Overall our key points are:

- The reforms are welcome, simple and meet community expectations that venues are also responsible parties, helping to reduce gambling harm for patrons, staff and the community.
- As a minimum, venues must be obliged to link patrons' identifications with the self-exclusion register to discreetly refuse entry at the door of the venue, or the gambling room, in the case of pubs.
- This ID check will assist venues in ensuring that no minors are accessing EGMs.
- Venues must also ensure that they have sufficient staff with advanced training on each shift to handle these potentially difficult situations. These staff can also approach people showing signs of gambling harm in order to undertake welfare checks. These conversations require sensitivity and training.
- It is clear that further consultation with other stakeholders, in particular, people with lived experience, and with venue staff and their union is necessary to redesign some sections of the legislation and regulations - venue management alone will not provide enough information on unintended consequences or practical workplace matters.
- The family-led exclusion pathway is welcome, but the design in the draft legislation and regulations would benefit from consultation with people with lived experience and specialists in family and domestic violence. In particular, handing control of that application system to the same venues that host the harm and have, by definition, not been acting on the behaviour they must have observed, is unsupportable. The system should operate through independent adjudicators with gambling counselling expertise, and they, not the venues, should decide if someone needs to be excluded.
- People should have multiple pathways to self-exclude or manage their behaviour - it is clear that the shame and stigma around gambling issues prevents people from seeking help when they have to disclose behaviour that they find embarrassing. Autonomous access to the self-exclusion register, or the use of a card which can have a budget set to \$0, would allow people to start the process of taking back control. Ideally, they would be encouraged to seek counselling support.
- Card systems can also be designed to encourage breaks in play, but should not be linked to credit, should not be automatically topped up, and should not be anonymous. Card systems should not be controlled by venues, because of the conflict they have in maximizing revenue, rather than protecting patrons and staff.

DETAILED MAPPING OF THE PROPOSED DRAFT REFORMS:

Legislation	Suggested submission points
Reform package	Welcome, simple, modest, achieves community expectations
[1] - [4], [6]-[8], [11]	support increased penalties
[5]	additions to Act, as listed below
42C {family led exclusions} & 42N {gambling counsellors acting on behalf of family members} and 40J in the Regulations	<p>Recommend further consultation with people with lived experience for the design, however:</p> <ul style="list-style-type: none"> ● Recommend that the operation of the system be removed from the control and involvement of venues, due to conflict of interest; ● Provide one or more independent adjudicators with gambling counselling experience, employed/paid for by the RGF or a gambling levy, to hear applications; ● If the independent adjudicator upholds the application, the person in question is to be notified and offered counselling, and no exclusion can take place until reasonable efforts to contact and offer counselling have taken place; ● the adjudicator places the person on the State-wide Exclusion Register; ● Further design of the family-led process be based on consultation with experts in domestic and family violence, due to the high risk associated with the process, and the need to keep family members safe ● improve privacy provisions around the identity of family members
42E {extension of exclusion to all venues within 5km}	support, assuming that a person does not self-exclude, or is excluded from, all venues in NSW
42F-42J {venues must take all reasonable steps to prevent an excluded person from entering the venue and not include them in any promotions or reward schemes}	<p>strongly support principle, but the detail is unknown as it is to be outlined in guidelines which are not yet available;</p> <p>At a minimum, in the legislation, there should be a requirement to check identification against the State-wide exclusion register at sign-in to a club, or within a short time of entering a gambling room at a pub</p> <p>Note that consistent identification checking will also aid in preventing minors from gambling, particularly in pub gambling rooms</p>
42K {forfeit of winnings}	<p>Suggest that all losses are reimbursed to the person (as the venue has demonstrably failed to enforce the exclusion) and if there are winnings remaining, those to be forfeit to the Responsible Gambling Fund;</p> <p>If winnings do not cover losses, that shortfall should be made up by the venue</p>
42L {single State-wide Register}	strongly support, where checking of identification of people entering venues (clubs) or gambling rooms (pubs) can be linked to the register to facilitate enforcing the exclusion arrangements
42M {record breaches or attempted breaches}	<p>Recommend further consultation with people with lived experience and counsellors as to unintended consequences of punitive responses to breaches, through recording on the state-wide register;</p> <p>support noting breaches or attempted breaches on a venue gambling incident register but recommend further consultation with staff and union (not management) as some details in the draft suggest that the additional paperwork involved will deter staff from reporting incidents</p>
[9]-[10] {remove "problem"}	applaud cultural change that recognizes that labelling using "problem" inhibits help-seeking behaviour when describing counselling services

48A {matters to be recorded on gambling incident register}	support creation of registers, similar to alcohol incident registers, however some concerns remain over the scope in 48A.2(a) requiring listing any of the behaviours specified in guidelines without requiring any other intervention based on observing those behaviours; the purpose of allowing police officers to access and copy the register is unclear and seems unnecessary; no privacy provisions are detailed
48C {gambling contact officer}	support, with preference that such an officer receive a higher duties allowance or pay scale
48D {whistleblower protection}	other, proven and superior, whistleblower provisions exist in other Acts and should be copied for this reform
[14] {advanced RCG training}	welcome, though reference to the Victorian system where the authority conducts training rather than RTOs should be considered
[16] {minors obtaining prizes}	sensible closing of a loophole, although as above, losses should be refunded to the minor before remaining winnings, if any, are forfeited. If winnings do not cover losses, that shortfall should be made up by the venue

Regulations	Suggested submission points
40F-40G {venue considering family led exclusion}	for the purposes of family-led applications, delete references to venues or gambling contact officers, as family led exclusions should be handled by independent adjudicators; data, including gambling incident register information, held by venues where the subject of an application has gambled, could be made available to the adjudicator with appropriate privacy provisions
40H	for the purposes of venue-initiated applications, some aspects of 40F-G may be applicable, but should be considered in the context of Responsible Conduct of Gambling requirements
40I {review}	amend to reflect the decision making of an independent adjudicator, unless the venue has made a venue-led exclusion
40J	see above in Legislation
40K {access to data on state-wide register}	access to the register by authorised persons employed by venues should be restricted to entering a person on the Register if the person applies, or if there is a venue-led exclusion, and checking if the person is on the self-exclusion register for the purposes of allowing them access to the venue or gambling rooms no other access by venue staff should be allowed unless ordered under 40K.1.c or d
40M {gambling counselling services}	it is unclear why the AHA or ClubsNSW are considered prescribed gambling counselling service providers, but other gambling counselling services which do not receive funding from the RGF are not - a person should be able to seek gambling counselling from any properly qualified counsellor regardless of that counsellors funding source
[16] {failure to ensure qualified gambling contact officers employed}	the penalty should be substantially higher for not employing sufficient qualified staff
50A {functions of gambling contact officer}	support as these will lead to an improved Responsible Conduct of Gambling culture, particularly the requirement to engage with patrons exhibiting concerning behaviour which should be mandatory

RECOMMENDATIONS ON WHAT TO CALL FOR THAT IS MISSING FROM THE EXPOSURE DRAFT

scope of penalties	The recent ILGA actions against ALH pubs showed that where a venue is a subsidiary of a group, only the licensee or venue management might be penalized - there should be potential to levy penalties on all levels of the management and ownership chain of venues, and penalties should be levied there and not on non-managerial staff
limits on exclusions	there should be no limit to the number of venues a person can seek self-exclusion from
provision of counselling	if a person self-excludes using an online portal without the assistance of a gambling counsellor, the system should trigger a “warm referral” so that a qualified gambling counsellor contacts the person within 7 days to offer counselling
privacy	throughout the revised system, more privacy protection is needed, particularly making it an offence to monetize in any way the data held on the state-wide register or an individual venue incident register
research	de-identified data from the state-wide register should be available for research and policy development
cashless gambling	<ul style="list-style-type: none"> to reinforce the exclusion system, particularly self-exclusion, cashless systems (“cards” for simplicity) should become mandatory for all EGM use in NSW; the system should be out of the hands of venues and data should be protected beyond that of the exclusion and incident registers cards should be issued once age and identification verification has taken place cards offer a pathway for people to set their own expenditure budgets, including setting that to zero as a more anonymous self-exclusion process, which is likely to have higher uptake cards could be frozen as soon as a person is entered onto the state-wide exclusion register, as a back up in case they breach their deed and are not detected by a venue card systems can be designed using research findings to encourage breaks in play card systems would significantly reduce money-laundering through poker machines cards should not be linked to credit cards, should not have automatic top-ups, should not be anonymous

Document matrix	Status
Consultation draft legislation	NSW government consultation site
Current legislation: Gaming Machine Act Gaming Machines Regulations Gaming and Liquor Administration Act Gaming and Liquor Administration Regulations Registered Clubs Act	NSW laws and regulations
Alliance Self & 3rd party position paper	google doc version ratified paper - need to replace link with one to pdf on website
Alliance Draft Cashless gambling position paper	draft internal doc (to be ratified by Board), available by request
NSW Responsible conduct of gambling	Current NSW government requirements of RSA and RCG
Responsible Conduct of Gambling NSW - study	19 Feb 2020 - report commissioned by the Responsible Gambling Found into the RCG system in NSW