



Brief – Policy

Topic	Proposed consultation process and timeline for the review of the 'Three Strikes' Disciplinary Scheme.
Analysis	Approval of the proposed consultation process and timeline for the review of the 'Three Strikes' disciplinary scheme will allow the review to commence in accordance with requirements under section 144K of the <i>Liquor Act 2007</i> .

Recommendation

That the Deputy Premier agrees to the proposed consultation process and timeline for the review of the 'Three Strikes' disciplinary scheme.

➔ Deputy Premier's approval:

Date: 23.9.15

Deputy Premier's office:

22.10.15

Key reasons

The proposed review will involve face-to-face or telephone consultation with key stakeholder organisations and provide the opportunity for any interested stakeholders to participate via a public submission process. The consultation process will be informed by a communications plan for the review. **Attachment A** provides an outline of the proposed consultation process and timeline for the review.

It is proposed that a draft review report be completed in January 2016, and that a final review report be submitted to Government in February 2016.

The review will provide an opportunity for issues and concerns that have been raised by stakeholders about the operation of the 'Three Strikes' disciplinary scheme to be considered by Government. These include the scheme's impact on the financial viability of licensed venues, ongoing impacts on business and premises owners, and administrative difficulties experienced by regulators.

Departmental approvals

Comments:

Position	Signature	Date
Approving officer: Rosemary Caruana, A/Executive Director (02) 9995 0999		11/09/2015
Endorsing officer: Feargus O'Connor, A/Deputy Secretary		16/9.
Endorsing officer: Andrew Cappie-Wood, Secretary 		21/9/15

Reference:
DOC15/019383
DF15/001385

Division/Branch:
OLGR / Policy

Approving officer:
Rosemary Caruana (02) 9995 0999

Background

The *Liquor Amendment (3 Strikes) Act 2011 (No 2)* was passed by the NSW Parliament on 9 November 2011, and the 'Three Strikes' Disciplinary Scheme subsequently commenced operation on 1 January 2012. The scheme allows for 'strikes' to be incurred by a liquor licence where a licensee or approved manager is convicted of one of a range of the most serious offences under the *Liquor Act 2007*, as specified under clause 144B.

Under the scheme, a first strike is automatically incurred upon conviction for a single offence. A second strike is discretionary, with a decision made by the Secretary of the Department of Justice, and can be incurred upon conviction for an offence committed where one strike is already in force. A third strike is also discretionary, with a decision made by the Independent Liquor and Gaming Authority, and can be incurred upon conviction for an offence committed where two strikes are already in force. A range of conditions and restrictions can be imposed as a result of incurring a strike, with the ultimate sanction being loss of licence and disqualification from the industry.

Section 144K of the *Liquor Act 2007* requires that a statutory review of the 'Three Strikes' disciplinary scheme be undertaken to determine whether the policy objectives of the scheme remain valid and whether the terms of the scheme remain appropriate for securing those objectives. The review is to be undertaken as soon as possible after the period of four years from the commencement of the scheme on 1 January 2012, and a report is to be tabled in each House of Parliament within 12 months after the end of the period of four years (i.e. before 1 January 2017).

Attachment

Attachment	Title
A	Proposed consultation process and timeline for the review of the 'Three Strikes' Disciplinary Scheme

Reference:
DOC15/019383
DF15/001385

Division/Branch:
OLGR / Policy

Approving officer:
Rosemary Caruana (02) 9995 0999

Proposed consultation process and timeline for the review of the 'Three Strikes' Disciplinary Scheme

Objective of the review:

The overarching objective of the review is to determine whether the policy objectives of the scheme remain valid, and whether the terms of the scheme remain appropriate for securing those objectives.

More specifically, the review will examine:

- the nature of any positive and negative community impacts of the scheme;
- the impact of the scheme on compliance with provisions of the *Liquor Act 2007* that are relevant to the scheme;
- the impact of the scheme on venue practices and behaviour aimed at minimising the risk of incurring strikes; and
- financial and other impacts of the scheme on the owners and operators of licensed premises.

Proposed consultation process:

- Develop a communications plan to inform the consultation process. This plan will target key stakeholders while also ensuring that the wider community can contribute to the review via a public submissions process.
- Develop a short key issues paper to inform the public submission process. This paper will reference the legislation underpinning the scheme, briefly describe its operation, and identify key issues for comment in submissions.
- Call for public submissions (to be advertised via the OLGR website, an article in the OLGR QuickNews e-newsletter, and emails to the key stakeholder organisations listed below plus all liquor accord groups)
- Conduct face-to-face or telephone consultations with key stakeholder organisations:
 - Independent Liquor and Gaming Authority
 - NSW Police Force
 - Australian Hotels Association (NSW)
 - ClubsNSW
 - Liquor Stores Association (NSW)
 - Restaurant and Catering NSW
 - NSW/ACT Alcohol Policy Alliance
 - NSW Business Chamber
 - Office of the Small Business Commissioner
 - Australian Bankers Association
 - Mortgage and Finance Association of Australia
 - Commonwealth Bank, National Australia Bank, ANZ Bank, Westpac (If required)
- Conduct internal consultation with OLGR Compliance and Customer and Engagement branches

Other relevant information sources:

- Relevant Ministerial correspondence
- OLGR Compliance data regarding the 'Three Strikes' scheme (i.e. data relating to breaches of the *Liquor Act 2007* that are relevant to the scheme)

Proposed timeline:

Stage	Timing
Develop communications plan	October 2015
Develop key issues paper to inform public submission process	October 2015
Call for public submissions	16 November 2015 (closing date 8 January 2016 to account for legislative requirement that review occur in 2016)
Conduct targeted face-to-face or telephone consultations with key stakeholder organisations	16-27 November 2015
Conduct internal consultation with OLGR Compliance branch	30 November – 11 December 2015
Analyse relevant Ministerial correspondence and OLGR Compliance data regarding the 'Three Strikes' scheme	30 November – 11 December 2015
Submit draft report for internal OLGR review	29 January 2016
Submit final report to Government for consideration	28 February 2016
Table review report in Parliament	By end 2016