

GL4017

# Guidelines for registered clubs accountability

These guidelines apply to all registered clubs in NSW and are useful in understanding the accountability obligations under the *Registered Clubs Act 1976* and the Registered Clubs Regulation 2015, including the Registered Clubs Accountability Code (Accountability Code).

They reflect the reforms implemented through the *Registered Clubs Amendment (Accountability and Amalgamations) Act 2018* that came into effect on 15 June 2018.

These guidelines are intended to give registered clubs guidance on Liquor & Gaming NSW's (L&GNSW's) compliance approach.

## Overview

Registered clubs are required to meet the accountability and governance requirements set out in the legislation.

The reforms that came into effect on 15 June 2018 include a co-regulatory approach to club accountability. As part of this, a number of low risk accountability requirements were moved from the Act into the Accountability Code, which is now prescribed in the Regulation.

While the Accountability Code is intended to be less prescriptive, breaching any obligation under the Code may be an offence and will continue to be grounds for disciplinary action.

## Individual liability of club directors and secretaries

The disciplinary powers of the Independent Liquor & Gaming Authority have been strengthened, enabling the Authority to impose monetary penalties of up to \$11,000, and take disciplinary action, against individual club directors and secretaries who breach club governance and management requirements.

## How the co-regulatory model works

Under the co-regulatory model, oversight of low-risk accountability matters for clubs will be shared with ClubsNSW for its member clubs, with L&GNSW retaining the power to step in where appropriate. This enables the expansion of industry self-regulation and will allow L&GNSW to focus its attention on high-risk matters.

ClubsNSW and its review body, the Code Authority, will be the first point of contact for their member clubs regarding any accountability obligations under the Accountability Code. If a matter is considered to be a non-low-risk breach of the Accountability Code, it will be escalated to L&GNSW for investigation and necessary action.

L&GNSW will continue to oversee accountability requirements for non-ClubsNSW clubs.

## Employment contracts for top executives

The Accountability Code defines a top executive as any of the following:

- ▲ The club secretary;
- ▲ A manager of the club;
- ▲ Any employee of the club who is nominated by the club as a top executive;
- ▲ Any employee of the club (unless otherwise nominated) who is one of the five (5) highest paid employees of the club, and whose remuneration package exceeds the high income threshold set by the Fair Work Commission and who is involved in the general administration of the club or with its liquor and gaming operations.

Under clause 3 of the Accountability Code, a top executive's employment contract must be in writing, and must be reviewed by an independent and qualified adviser before being approved by the board.

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An independent and qualified review refers to a review performed by a suitably qualified person or body (i.e. with legal or human resources (HR) qualifications) who is not involved with the administration or operation of the registered club. The club's own HR personnel are not considered to be independent advisors. Clubs may use a model contract of employment if that model contract has been reviewed by an independent and qualified advisor.

### Disclosures of interests by club directors, top executives and employees

Under clause 8 of the Accountability Code, clubs are required to keep a register, in the form approved by the Secretary of the Department of Industry, containing the details of disclosures of interests by club directors, top executives and employees. These include personal or financial interests relating to affairs of the club, major capital works, procurement of goods/services or hotels within 40kms of club premises, as well as gifts or remuneration received from certain persons/bodies valued at \$1,000 or more.

The club accountability disclosures register is available at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).

While the onus is on individual club directors, top executives and employees to disclose any such interests, clubs are required to have procedures in place to ensure that these matters are disclosed within 21 days of the individuals becoming aware of those interests.

Failure to disclose these interests could result in the Independent Liquor and Gaming Authority imposing a maximum penalty of \$5,500 and/or taking disciplinary action against the individual or the club.

### Entering into contracts

Clubs are required to make all reasonable inquiries to ensure that they do not enter into contracts with:

- ▲ The club secretary, a manager, or a close relative of the club secretary or manager; or
- ▲ A company or body in which the secretary, a manager, or a close relative of the secretary or manager, has a controlling interest; or
- ▲ A director or top executive of the club, or with a company in which a director or top executive has a pecuniary interest, unless it's first approved by the club's board.

Clubs are able to rely on statutory declarations from the persons concerned in satisfying the requirements of these provisions.

Contracts of employment and contracts resulting from open tender processes are exempt from these restrictions.

### Management contracts

A management contract is a contract that enables a person who is not a club director, secretary, manager or employee to exercise management functions at the club.

Clubs need to consider the interests of their members when making decisions on any proposed management contract.

Under clause 5 of the Accountability Code, clubs must not enter into a management contract unless they notify their members and provide a report to L&GNSW at least one (1) month prior.

Failure to do this will void the contract (clause 5(3) of the Accountability Code).

GL4013 'Guidelines for management contracts' provides more information about a club's obligations in relation to management contracts.

### Employment of close relatives

Under clause 7 of the Accountability Code, there are restrictions on the employment of close relatives of club directors and top executives.

The Accountability Code defines a close relative of a person as:

- ▲ a parent, child, brother, sister, spouse or de facto partner of the person; or
- ▲ the spouse or de facto partner of the person's parent, child, brother or sister.

Clubs are required to make all reasonable inquiries to find out, before it employs any person, whether they are a close relative of a director or top executive. This could be in the form of requiring the potential employee to provide a statutory declaration.

Clubs must not employ a close relative unless the employment is first approved by the club's board. If the person is a close relative of a director, that director must exclude themselves from that decision making process.

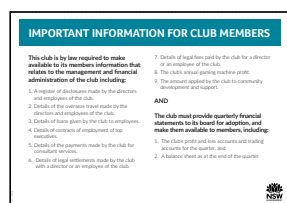
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These new requirements will ensure an appropriate mechanism to promote transparency and limit risks of nepotism in the recruitment process, but still provide a degree of anonymity for candidates who are close relatives.

## Providing information to members

Clubs are required to make information relating to the management and financial administration of the club available to their members.

Clubs must display a notice in their premises and on their website (if any) advising their members how this information can be accessed. A suggested notice [Sign 2C] is displayed below and is available at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au)



Clubs must make the following information available to their members within four (4) months after the end of their financial year:

- ▲ The register of disclosures of interests made to the club under clause 8 of the Accountability Code;
- ▲ Details of the overseas travel made by a director or an employee in their capacity as a director or an employee, including any costs wholly or partly met by the club;
- ▲ Details of any loan over \$1,000 given by the club to employees, including the loan amount and interest rate (if any);
- ▲ Details of contracts of employment of top executives approved during the reporting period;
- ▲ Details of any payment over \$30,000 made by the club for consultant services, including name of the consultant, the fee and nature of services provided;

- ▲ Details of legal settlements made by the club to a director or an employee;
- ▲ Details of legal fees paid by the club on behalf of a director or an employee;
- ▲ The club's annual gaming machine profit; and
- ▲ The amount applied by the club to community development and support under the ClubGRANTS scheme.

It is recommended that clubs record the information in a spreadsheet format for ease of accessibility and understanding. A suggested template is available, within the club accountability disclosures register, at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).

To ensure clubs remain transparent and accountable to their members, clubs must ensure that this information is readily available to members upon their request. Appropriate methods of production include posting on the clubs' website, producing in written form, or by email.

Clubs must also prepare and provide quarterly financial statements to their board for consideration, including:

- ▲ The club's profit and lost accounts and trading accounts for the quarter; and
- ▲ A balance sheet as at the end of the quarter.

Clubs must make these financial statements available to their members within seven (7) days of being adopted by their board.

### For further information

To find out more about registered clubs accountability, contact L&GNSW:

- [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au)
- [contact.us@liquorandgaming.nsw.gov.au](mailto:contact.us@liquorandgaming.nsw.gov.au)
- 1300 024 720