

# Independent Liquor and Gaming Authority (ILGA)

OFFICIAL

## Code of Conduct

<b>Policy</b>	Code of Conduct
<b>Policy type</b>	Governance Audit and Risk
<b>Version</b>	2
<b>Review date</b>	12 months
<b>Approved by</b>	Independent Liquor and Gaming Authority (ILGA)
<b>Note</b>	This Code acknowledges that regulatory roles for the liquor and gaming industry have additional probity and procedural responsibilities owing to the nature and sensitivity of the work and public concern about potential corruption in this industry.

### Policy statement and key principles

This policy outlines the values, principles and standards of behaviour expected of Authority members and staff members of the Office of the Independent Liquor and Gaming Authority (ILGA).

### Document Control

Version	Status	Date	Comments
1	Final version	8 February 2023	Approved
2	Final version - Renewal	22 May 2024	General updates consistent with staff agency status, approved out of session

## 1. Purpose

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The purpose of this Code of Conduct is to outline the values, principles and standards of behaviour expected of the Independent Liquor & Gaming Authority (ILGA) members and the Office of ILGA (OILGA) staff. This Code acknowledges that regulatory roles for the liquor and gaming industry have additional probity and procedural responsibilities owing to the nature and sensitivity of the work and public concern about potential corruption in this industry.

## 2. Introduction

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The ILGA is a statutory decision-maker responsible for a range of liquor, registered club and gaming machine regulatory functions including determining licensing and disciplinary matters under the gaming and liquor legislation. OILGA is a separate staff agency with staff employed under the *Government Sector Employment Act 2013 (GSE Act)* to support ILGA in discharging its functions and responsibilities.

While ILGA is an independent statutory body, this Code has been developed with reference to relevant NSW Government policies, guidelines and legislation, including the Ethical Framework outlined in the GSE Act and the NSW Government Boards and Committees Guidelines.

## 3. Principles of conduct

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ILGA members and OILGA staff must uphold certain standards of conduct and ethics to maintain public confidence and trust. Public confidence means that the public has the right to expect ILGA members and OILGA staff will demonstrate the highest standards of integrity and competence, treating all citizens fairly, reasonably and equitably.

### 3.1 Ethical conduct

Members of government boards are considered public officials, subject to the core values and general principles that apply to public sector employees. These are set out below and extracted from the Ethical Framework in the GSE Act:

#### Integrity

- Consider people equally without prejudice or favour.
- Act professionally with honesty, consistency and impartiality.
- Take responsibility for situations, showing leadership and courage.
- Place the public interest over personal interest.

#### Trust

- Appreciate difference and welcome learning from others.
- Build relationships based on mutual respect.
- Uphold the law, institutions of government and democratic principles.
- Communicate intentions clearly and invite teamwork and collaboration.
- Provide apolitical and non-partisan advice.

#### Service

- Provide services fairly with a focus on customer needs.
- Be flexible, innovative and reliable in-service delivery.
- Engage with the not-for-profit and business sectors to develop and implement service solutions.
- Focus on quality while maximising service delivery.

#### Accountability

- Take responsibility for decisions and actions.
- Provide transparency to enable public scrutiny.
- Observe standards for safety.
- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

## 4. Personal and professional behaviour

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All ILGA members require a clear understanding of their public duties and legal responsibilities and must act for the proper purpose without exceeding their powers. An ILGA member must perform their functions within the relevant statutory powers or legal obligations and is supported by OILGA as required.

ILGA members and OILGA staff must act with integrity, impartiality, honesty, conscientiousness, care, skill, diligence, and loyalty to the public interest.

### 4.1 Duties and obligations

An ILGA member:

- has a duty to use care and diligence in fulfilling the functions of office and exercising the powers attached to their position
- has an obligation to be independent in judgement and actions and to take all reasonable steps to be satisfied as to the soundness of all decisions taken by ILGA
- should act lawfully, honestly, in good faith and in the best interests of ILGA as a whole
- should not make improper use of information acquired as an ILGA member
- should not take improper advantage of their position as an ILGA member
- must manage any conflict with the interests of ILGA
- must not engage in conduct likely to bring discredit to ILGA
- has an obligation to comply with relevant legislation and with the principles of this Code.

An outline of the operational procedures of ILGA is provided in the ILGA Charter.

OILGA staff:

- should act lawfully, honestly, in good faith and in the best interests of ILGA as a whole
- should not make improper use of information acquired as a member of OILGA staff
- should not take improper advantage of their position as a member of OILGA staff
- must manage any conflict with the interests of ILGA or OILGA
- must not engage in conduct likely to bring discredit to ILGA or OILGA
- has an obligation to comply with relevant legislation and with the principles of this Code.

## 5. Accountability

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The nature of ILGA's work requires a high standard of accountability, transparency, and fairness.

### 5.1 Public expenditure

ILGA members and OILGA staff must be fiscally responsible, focusing on the efficient and responsible expenditure of any public monies it has access to in accordance with legislation and NSW Government policies and guidelines concerning financial, asset management and procurement requirements. ILGA members and OILGA staff must refer to the ILGA Delegations Manual and applicable spending limits in accordance with their role classification.

### 5.2 Decision making

Decisions of ILGA must be made in accordance with applicable legislation under which ILGA has functions, as well as the ILGA Charter and NSW Government policy and guidelines. Decisions and outcomes must be in the public interest and be able to withstand public scrutiny. ILGA members should attend all meetings of ILGA as far as is possible and allow the necessary time to prepare for meetings. Decisions, reasons for those decisions and ILGA processes must be documented, and minutes of all official meetings prepared and retained as official records.

### 5.3 Use of public resources

Under a Memorandum of Understanding, the Department of Enterprise Investment and Trade (DEIT) will provide equipment and other resources for ILGA and OILGA to perform its functions. All such resources

are to be used only for ILGA and OILGA work and in accordance with any guidelines or rules about those resources. An outline of the framework for the scope of services provided by DEIT is provided in the NSW Department of Enterprise Investment and Trade and NSW Independent Liquor and Gaming Authority Memorandum of Understanding.

## 5.4 Use of official information

ILGA members and OILGA staff must not disclose official information or documents acquired through their membership, other than as required by law, or when the member has been given proper authority to do so. ILGA members and OILGA staff, as individual members of the community, have the right to make public comment and enter public debate on political and social issues. However, there are some circumstances in which this is inappropriate. For example, situations when the public comment, although made in a private capacity, may appear to be an official comment on behalf of ILGA. In such circumstances, ILGA members and OILGA staff should preface their remarks with a comment that they are made in a private capacity and do not represent the views of the ILGA.

## 6. Responsibilities

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At all times, ILGA members and OILGA staff must comply with the following responsibilities:

- Refrain from engaging in or contributing to communications that bring ILGA and/or its wider departmental agencies into disrepute or are illegal, unethical, defamatory, or potentially defamatory.
- ILGA members must obtain permission from the Chairperson before agreeing to external facing representation of ILGA.
- OILGA staff must obtain permission from the Director, OILGA before agreeing to external facing representation of ILGA.

This includes (but is not limited to):

- speaking at external events such as webinars and conferences
- secondary stakeholder endorsement of organisations, services, or products through any communication channel, including marketing and social media.

## 7. Media relations

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ILGA members should read and comply with any relevant policies and procedures and discuss with the Chairperson if they are approached by media for comment or are unsure about media or social media engagement.

### 7.1 Media enquiries

The Director, OILGA, ILGA Chairperson and Senior Communications and Media Officer are the only members authorised to liaise directly with the Minister's media advisors and the media (with the exception of staff conducting approved interviews). This is important to ensure enquiries are dealt with efficiently, responses are consistent, and members are protected by having limited channels for media enquiries coming into and going out of ILGA. From time-to-time ILGA members may be approached by media asking for information about a project or policy. This can be over the phone, via email or in person, particularly at events. All media enquiries should be directed to the Director, Chairperson or Senior Communications and Media Officer.

### 7.2 Events and conferences

ILGA members who are invited to attend or address a public forum or community meeting in their capacity as ILGA members, should seek the authorisation of the Chairperson in accepting such invitations and before preparing speech notes. Subject to the right to make public comment as outlined in 5.4 Use of official information, ILGA members should refrain from making statements that have the potential to undermine the impartiality, independence and integrity of the work undertaken by ILGA or cause ILGA undue public criticism.

## 8. Gifts and benefits

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Gifts and benefits are defined under this policy as any item, service, prize, hospitality or travel, provided by a customer, client, applicant, supplier, potential supplier or external organisation, which has an intrinsic value and/ or a value to the recipient, a member of their family, relation, friend or associate'.

Accepting a gift or benefit may create a sense of obligation that could compromise impartial and honest decision making. Acceptance or giving of any gifts and benefits may also impact the public perception of the integrity and independence of ILGA and its members, and in some instances can be considered corrupt conduct. ILGA members and OILGA staff must not accept, offer or receive monetary gifts of any value or benefits intended to sway partiality in the course of their duties for ILGA.

There are some circumstances when to refuse a gift would be perceived as rude, insulting or hurtful. ILGA members for example, may be offered a gift or benefit of token value that is not intended to influence the members' public duty but is clearly an act of gratitude or courtesy.

### 8.1 Acceptable circumstances

It is important that the acceptance of a gift does not influence or is not seen to influence members' decision making. Gifts of nominal value may only be accepted if declining the gift would cause embarrassment or offence and where the member is satisfied that their position will not in any way be compromised or appear to be compromised by acceptance. For example, hospitality that is low-risk or of nominal value may be accepted in limited circumstances where the member is satisfied that their position will not in any way be compromised or appear to be compromised by acceptance. Where there is doubt about whether to accept hospitality, members should always err on the side of caution and decline the hospitality.

Generally, token gifts and benefits may include:

- Free or subsidised meals, beverages or refreshments in conjunction with:
  - Discussion of matters before the Authority
  - Conferences
  - Social functions organised by groups
  - Invitations and attendance at local social, cultural and sporting events
- Ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

Where a conflict of interest exists between an ILGA member or OILGA staff and their duties, the offer of a gift or benefit should always be declined and registered in the gift and benefit register.

## 9. Recognising and managing conflicts of interest

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Members of ILGA are appointed for their expertise and skill in particular areas. As a consequence of their expertise in these areas there may be the potential for conflicts of interest to arise between a member's duties to ILGA, and his or her other interests (or the duties or interests of others). There is also potential for conflicts of interest arising between an OILGA staff member and their administrative duties. It is recognised that there are particular risks associated with the regulation of the liquor and gaming industries and anticipated that from time-to-time conflicts of interest will arise for members.

A conflict of interest may arise for example from:

- other directorships or employment
- professional and business interests and associations
- investment interests
- family relationships
- personal relationships.

## 9.1 Recognising conflicts of interest

ILGA members and OILGA staff must disclose any direct or indirect pecuniary interest in relation to any matter that is being or may be considered by ILGA. Conflicts of interest are considered relevant if they may raise a perceived or actual conflict of interest in their performance of their duties. ILGA members and OILGA staff must also disclose non-pecuniary interests that may lead to partial decision making or affect a board or committee decision. Conflicts of interest are considered relevant if they may raise a perceived or actual conflict of interest in their performance of their duties as a member of ILGA or as OILGA staff, respectively.

Pecuniary interests are those where there is a likelihood or expectation of significant financial gain or loss. Non-pecuniary interests are those where there is an interest based on a personal relationship, association membership, society or trade union involvement. For example, a board member may have been employed with a company being put forward as a contractor or a staff member may belong to a club that has a matter under consideration by ILGA.

To identify and manage potential conflicts of interest in relation to matters considered at ILGA meetings, all meetings will include a standard agenda item and at the start of a meeting, members will be requested to declare any potential conflicts of interest. An ILGA member and/or OILGA staff member who has disclosed a conflict of interest in a matter to be considered at a ILGA meeting cannot be present during ILGA's discussion or participate in decision-making about the matter, unless ILGA determines otherwise in the absence of the member.

At any other time that an issue arises, a member must as soon as possible after the relevant facts have come to the member's knowledge, disclose full and accurate details of the interest or issue.

## 9.2 Managing conflicts of interest

Where a conflict is disclosed, the board member or staff member will not be present during any deliberation of ILGA in relation to the matter or take part in a decision of the ILGA in relation to the matter. ILGA may further agree on the most appropriate way to manage the conflict which can include:

- Divestment of the interest/issue that is creating the conflict, for example the sale of shares.
- Severing the connection, for example resignation from a position in another organisation giving rise to the conflict.
- Resignation of the member from the board or committee.

Disclosures of any conflicts of interest made in relation to matters before ILGA will be recorded in meeting minutes, as well as recorded in a register kept for that purpose. The register is available for inspection upon application by any person and payment of a fee determined by ILGA.

## 10. Declarations

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### 10.1 Disclosure of gifts and benefits

ILGA members and OILGA staff must complete a Gifts and Benefits Declaration form within five days of receiving or being offered a gift or benefit in connection with their duties at ILGA and forward the declaration with any applicable attachments to the Director Office of ILGA to facilitate appropriate management and record on the Gifts and Benefits Register.

### 10.2 Disclosure of pecuniary and non-pecuniary conflicts of interest

Before appointment ILGA members and OILGA staff must complete a pecuniary and non-pecuniary conflict of interest declaration in the form set out in the [NSW Government Boards and Committees Guidelines](#). ILGA members and OILGA staff must update their declarations as necessary throughout the course of their employment, to reflect any changes or new conflicts that arise. Completed declarations are retained by the OILGA and available to the minister as requested.

Disclosures of any conflicts of interest made either ad hoc or in relation to matters before the ILGA will be recorded in meeting minutes, as well as recorded in a (digital) register kept for that purpose. The

register is available for inspection upon application by any person and payment of a fee determined by ILGA.

## 11. Suspected corrupt conduct

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Principal officers are required to report corrupt conduct or suspected corruption to the Independent Commission Against Corruption (ICAC) and, where necessary, the NSW Police Force (Police). The principal officer of a public ILGA is its most senior officer. The Chairperson is considered the principal officer of ILGA.

Breaches such as accepting a gift, benefit, or hospitality to influence a ILGA member or OILGA staff in a professional capacity may be considered corrupt conduct under the Independent Commission Against Corruption Act 1988.

### 11.1 Corrupt conduct

While it can take many forms, corrupt conduct occurs where:

- A public official improperly uses, or tries to improperly use, the knowledge, power or resources of their position for personal gain or the advantage of others.
- A public official acts dishonestly or unfairly, or breaches public trust.
- A member of the public influences, or tries to influence, a public official to use his or her position in a way that is dishonest, biased or breaches public trust.
- A member of the public engaging in conduct that could involve one of the matters set out in section 8(2A) of the *Independent Commission Against Corruption Act 1988* where such conduct impairs or could impair public confidence in public administration.

For conduct to be considered corrupt under the ICAC Act definition, it has to be serious enough to involve a criminal offence, a disciplinary offence or be grounds for dismissal.

### 11.2 Reporting

A report must be made to the ICAC, and Police where necessary, as soon as there is a reasonable suspicion that corrupt conduct may have occurred or may be occurring. Matters must be reported to the ICAC and Police regardless of any duty of secrecy or other restriction on disclosure, except where there is any overriding legislation. It is important that reports to the ICAC and Police be made without advising the person(s) to whom the report relates and without publicity.

The *Public Interest Disclosures Act 2022* provides protection to public officials who voluntarily report suspected corrupt conduct. ILGA and OILGA members can make reports to the Chairperson of ILGA or to the Secretary, Department of Enterprise Investment and Trade who will refer the conduct to the appropriate body.

Members can also report directly to other investigative bodies:

- ICAC for disclosures of corrupt conduct.
- NSW Ombudsman for disclosures of maladministration.
- NSW Auditor-General for disclosures concerning serious and substantial waste of public money.

## 12. ILGA resources

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ILGA members and OILGA staff are provided with equipment and resources to perform their roles. These resources are to be used in accordance with the DEIT Acceptable Use Policy. Members are also responsible for ensuring that time and resources spent on a matter are consistent with guidance from the Chairperson, for staff members, the Director, and the OILGA. If members are likely to require additional time and/or resources, they are responsible for raising this with the Director or Chairperson at the earliest opportunity. Subject to any further requirements set by the Chairperson or Minister, members must abide by the current NSW Government policies on domestic travel and expense caps.

## 13. Lobbying

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ILGA members and OILGA staff must comply with the NSW Government Lobbyist Code of Conduct, as published on the Department of Premier and Cabinet's website under M2019-02-NSW Premier's Memorandum. This code regulates contact between registered lobbyists and Government representatives and restricts the circumstances in which a lobbyist can be appointed to a NSW Government board or committee.

## 14. Discrimination and harassment

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ILGA members and OILGA staff must treat members of the public and colleagues with respect, fairly and consistently with proper regard to their rights and obligations. ILGA members and OILGA staff must not harass or discriminate against their colleagues or members of the public on the grounds of sex, marital status, race, colour, nationality, ethnic or national origin, ethno-religious identity, descent, age, disability, homosexuality, transsexuality, or carer's responsibilities. Such harassment or discrimination may constitute an offence under the *Anti-Discrimination Act 1977*. In addition, ILGA members and OILGA staff must not harass or discriminate on the grounds of political conviction.

## 15. Records management and information

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ILGA members and OILGA staff must ensure they comply with records management obligations. The OILGA has responsibility for creating and maintaining full and accurate records of the activities, decisions and other business transactions of the agency. In accordance with the NSW Digital Government Strategy, the Office will prioritise digital storage where appropriate and ensure all records are maintained in accordance with relevant system requirements.

### 15.1 Protecting and using information

The agency collects information for a variety of purposes, to exercise its functions and discharge responsibilities. This information is used and stored in accordance with the relevant legislation and NSW Government Information and Records Management Policy. Members must:

- protect confidential information
- only release confidential information if authorised
- only use confidential information for the purpose intended
- not use confidential information for the purpose of securing a private benefit
- not use confidential information with the intention to cause harm or detriment to any person, body or ILGA
- not disclose information discussed during an in-session meeting.

When dealing with personal information, ILGA and OILGA members must comply with the *Privacy and Personal Information Protection Act 1998*.

## 16. Review of the Code of Conduct

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The Code of Conduct will be reviewed on an annual basis.

## 17. Related documents

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Related legislation (includes regulations under each Act):

- *Gaming and Liquor Administration Act 2007*
- *Gaming Machines Act 2001*
- *Gaming Machine Tax Act 2001*
- *Liquor Act 2007*
- *Music Festivals Act 2019*



- *Registered Clubs Act 1976*
- *Anti-Discrimination Act 1977*
- *Government Sector Employment Act 2013*
- *Government Sector Finance Act 2018*
- *Government Information (Public Access) Act 2009*
- *Independent Commission Against Corruption Act 1988*
- *Work Health and Safety Act 2011*
- *Ombudsman Act 1974*
- *Public Interest Disclosures Act 2022*
- *Privacy and Personal Information Protection Act 1998*

### Related policies

- ILGA Charter
- ILGA Regulatory Delegations Manual
- ILGA Data Breach Policy
- DEIT Gifts Benefits and Hospitality Policy
- Department of Enterprise Investment and Trade and NSW Independent Liquor and Gaming Authority Memorandum of Understanding – Service Delivery
- Department of Enterprise Investment and Trade and NSW Independent Liquor and Gaming Authority Instrument of Variation – Extension of Term of Memorandum of Understanding entitled “Service Delivery”
- Ministerial Statement of Expectations issued to ILGA under the *Gaming and Liquor Administration Act 2007* - signed 21 February 2024
- NSW Digital Government Strategy
- NSW Public Service Commission's Code of Ethics and Conduct for NSW Government Employees
- NSW Public Service Commission, Behaving Ethically: A Guide for NSW Government Sector Employees
- NSW Government Boards and Committees Guidelines
- ICAC's Managing Conflicts of Interest in the Public Sector
- DEIT Audit and Risk Committee, Shared Arrangement Agreement
- DEIT Audit and Risk Committee Charter
- DEIT Internal Audit Charter