

Independent Liquor and Gaming Authority (ILGA)

OFFICIAL

ILGA Charter

Policy	ILGA Charter
Policy type	Governance Audit and Risk
Version	9
Review date	12 months
Approved by	Independent Liquor and Gaming Authority (ILGA)
Note	The ILGA Charter is based on (but does not replicate) relevant statutory requirements. It is intended to deepen the understanding of Members and Office of ILGA (OILGA) staff in performing their regulatory duties.

ILGA Charter statement and key principles

The ILGA Charter supports the effective governance and operations of ILGA in line with its regulatory objectives and statutory functions.

Document Control

Version	Status	Date	Comments
1	Draft Charter presented to ILGA	16 October 2017	
2	Comments from ILGA incorporated	4 December 2017	
3	Added section on WHS	1 March 2018	
4	Added section on compliance with legislation	6 April 2018	
5	Approved version incorporating comments from ILGA	3 May 2018	
6	Information updated and content transferred to new template	5 November 2020	
7	Approved by ILGA	16 December 2020	
8	Updated branding, changes to reflect staff agency transition	7 February 2023	
9	Annual review	15 May 2024	General updates consistent with staff agency status, approved out of session



Table of Contents

1. Role of the Authority	3
2. Functions of the Authority	3
3. Responsibilities	4
3.1 Individual Responsibilities of Members	4
3.2 Responsibilities of the Authority Chairperson	5
3.3 Responsibilities of the Authority Deputy Chairperson	5
3.4 Responsibilities of the OILGA	5
3.4 Responsibilities of the Director, OILGA	6
4. Authority Composition and Appointment	6
5. Authority Meetings	6
5.1 General Procedure	6
5.2 Frequency of Meetings	6
5.3 Meeting agenda and minutes	6
5.4 Quorum	7
5.5 Control of Meetings	7
5.6 Decision Making	7
5.7 Out of Session Decisions	7
5.8 Publication of Decisions	7
5.9 Independent Advice and Compliance with Legislation	7
6. Delegations	7
7. Code of Conduct	8
8. Committees	8
9. Recognising and Managing Conflicts of Interest	8
9.1 Declarations of Pecuniary Interests	8
10. Audit and Risk Management	8
11. Indemnity for ILGA members	8
12. Work Health and Safety Obligations	9
13. Financial Management	9
13.1 Authority budget and reporting	9
13.2 Reimbursement of reasonable expenses	9
14. Reporting	9
14.1 Performance Monitoring	9
14.2 Annual Reporting	9
15. Government information and public access	9
16. Review of the Charter	11
17. Related Documents	11
17.1 Legislation	11

1. Role of the Authority

ILGA is an independent statutory decision-maker established under the *Gaming and Liquor Administration Act 2007* responsible for a range of liquor, registered club and gaming machine regulatory and music festival functions including determining licensing and disciplinary matters under the gaming, liquor and music festival legislation. ILGA comprises appointed Members. It employs its own staff (Office of ILGA or OILGA).

While ILGA is an independent agency, this Charter has been developed with reference to relevant NSW Government policies, guidelines and legislation, including the Ethical Framework outlined in the *Government Sector Employment Act 2013* and the *NSW Government Boards and Committees Guidelines*.

2. Functions of the Authority

ILGA has the functions conferred or imposed on it under gaming and liquor legislation. This includes the following Acts and the regulations and other instruments made under those Acts:

- *Liquor Act 2007*
- *Gaming Machines Act 2001*
- *Registered Clubs Act 1976*
- *Gaming Machine Tax Act 2001*
- *Gaming and Liquor Administration Act 2007*
- *Music Festivals Act 2019*.

The Authority performs functions under this legislation, including:

- determining licensing and gaming applications
- determining the subject status of a music festival and approving safety management plans
- issuing various orders including requiring licensed premises to close for a period of time and banning persons from entering licensed premises for a period of time
- determining disciplinary and remedial action to be taken against licensees and others, and
- reviewing certain delegated decisions made on its behalf by Liquor & Gaming NSW and certain decisions made by the Secretary, Department of Enterprise, Investment & Trade.

ILGA's functions may be delegated to a Committee or to an officer of the Principal Department In undertaking its statutory functions, ILGA must:

- promote fair and transparent decision making,
- deal with matters in an informal and expeditious manner, and
- promote public confidence in its decision making and the conduct of its members.

The relevant Minister has a statutory power to direct the Authority under *Gaming and Liquor Administration Act 2007* – section 6, except in relation to:

- the contents of any advice, report or recommendation given to the Minister, and
- decisions in relation to:
 - the granting, suspension or cancellation of a gaming or liquor licence,
 - the imposition, variation or revocation of conditions of a gaming or liquor licence, or
 - the taking of disciplinary action under the gaming and liquor legislation.

The Authority is also required, upon being directed by the Minister to do so, to inquire into, and make a report and recommendations to the Minister upon, any matter connected with the administration of the *Registered Clubs Act 1976* under section 70A(b) of that Act.

3. Responsibilities

3.1 Individual Responsibilities of Members

Every Member of the Authority must:

- Act in good faith having due regard to the objects of the Acts under which the Authority has functions, in particular the need to:
 - *Liquor Act 2007*
 - to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.¹
 - *Gaming Machines Act 2001*
 - to minimise harm associated with the misuse and abuse of gambling activities,
 - to foster responsible conduct in relation to gambling,
 - to facilitate the balanced development, in the public interest, of the gaming industry,
 - to ensure the integrity of the gaming industry,
 - to provide for an on-going reduction in the number of gaming machines in the State by means of the tradeable gaming machine entitlement scheme.²
 - *Gaming and Liquor Administration Act 2007*
 - to ensure the probity of public officials who are engaged in the administration of the gaming and liquor legislation,
 - to ensure that the Authority is accessible and responsive to the needs of all persons and bodies who deal with the Authority,
 - to promote fair and transparent decision-making under the gaming and liquor legislation,
 - to require matters under the gaming and liquor legislation to be dealt with and decided in an informal and expeditious manner,
 - to promote public confidence in the Authority's decision-making and in the conduct of its members and staff.³

¹ s3 *Liquor Act 2007*.

² s3 *Gaming Machines Act 2001*.

³ s2A *Gaming and Liquor Administration Act 2007*.

- Use due care and diligence in the execution of their role and powers.
- Comply with the Ethical Framework for the public sector set out in the *Government Sector Employment Act 2013*.
- Comply with the Code of Conduct.
- Prepare for, and attend, scheduled and extraordinary meetings and relevant committees.
- Actively participate in the decision-making process.
- Disclose pecuniary interests and non-pecuniary interests as soon as they arise.
- Where an actual or perceived conflict of interest is identified, comply with ILGA's decision on the management of the conflict, which may entail the member's non-participation in relevant discussions and/or decisions.
- Not disclose information acquired as a consequence of their membership, other than as required by law, or when the member has been given proper authority to do so.
- Not seek, offer or receive money or gifts in order to obtain an actual or perceived benefit or favour.

3.2 Responsibilities of the Authority Chairperson

The Authority Chairperson provides leadership and direction to members and ensures the effective functioning of the Authority. The Chairperson is responsible for:

- Ensuring that the Authority performs its functions, acting within any relevant statutory powers and legal obligations.
- Approving the agenda for meetings and ensuring that meeting minutes properly reflect Authority decisions.
- Presiding over Authority meetings and ensuring meetings are focused and effectively run, allowing frank and open discussion between all members.
- Liaising with stakeholders, including the Minister, the Secretary of the Principal Department and the Deputy Secretary, Hospitality and Racing and other officers of the Principal Department.
- Ensuring appropriate secretariat support is provided to ILGA by the Office of ILGA (OILGA).
- Where required, providing input into the nomination, selection and recruitment process for new members and providing appropriate induction for new members.

3.3 Responsibilities of the Authority Deputy Chairperson

The Deputy Chairperson will hold all responsibilities of the Chairperson, while the Chairperson is absent or as agreed, and support the Chairperson in performing their duties.

3.4 Responsibilities of the OILGA

The OILGA supports the operation of the Authority, providing administrative, operational and legal support to ILGA meetings. The key responsibilities include:

- Developing meeting agendas, recommending subcommittees to consider matters and developing a run sheet for each meeting.
- Liaising with officers of the Principal Department for the submission of meeting papers.
- Circulating papers to ILGA members no later than 5 business days in advance of meetings.
- Taking accurate minutes for Authority meetings and effectively documenting decisions, action items and other relevant information.

- Organising meeting facilities and other meeting logistics.
- Liaising with and supporting members, as required.
- Providing legal advice.
- Preparation of correspondence, guidelines and documents relating to decisions made by the Authority.
- developing budgets, monitoring financial performance, forecasting future financials in collaboration with the Director, OILGA.
- Managing media and communications and developing strategies to establish and maintain the Authority's presence and reputation.

3.4 Responsibilities of the Director, OILGA

The Director, OILGA is comparable with a Chief Executive Officer and has responsibility for:

- Ensuring the ILGA's strategic and regulatory objectives are established and implemented in all work undertaken by the OILGA and the ILGA's delegates.
- Maintaining the ILGA's authority and independence in connection with departmental and ministerial activities and engagement.
- In consultation with the Chairperson, identifying and liaising with key stakeholders and maintaining ILGA's relationship with the Principal Department.
- Managing and advising ILGA on matters related to its governance, structure and budget and directing expenditure for the provision of specialist legal or external advice.
- Keeping informed of relevant government policy and developing tailored internal policies that allow the ILGA to meet its obligations as an independent staff agency.
- Effective management and oversight of OILGA staff.

Ensuring the OILGA has the capacity and resourcing to provide appropriate advice and support to ILGA and that Members are apprised of the information needed to make transparent and accountable decisions.

4. Authority Composition and Appointment

Appointments to ILGA are undertaken in line with the requirements of the *Gaming and Liquor Administration Act 2007* and the [NSW Government Boards and Committees Guidelines](#).

5. Authority Meetings

Authority meetings will be held to allow consideration of relevant matters in a timely manner.

5.1 General Procedure

Subject to the *Gaming and Liquor Administration Act 2007*, the procedure for the calling of meetings of the Authority and for the conduct of business at those meetings is to be as determined by ILGA.

5.2 Frequency of Meetings

The Authority will generally meet monthly. The agenda and a notice of outcomes will be published on the website.

5.3 Meeting agenda and minutes

The Chairperson, with the support of the OILGA, will determine the agenda for each meeting.



As far as is practicable, the agenda and majority of Authority papers will be circulated to members at least five working days prior to the meeting. Distribution will be electronic, using the preferred board portal. Diligent Boards.

The OILGA will prepare the draft meeting minutes promptly after each meeting and, as far as is practicable, will submit to members for approval or amendment within 5 working days of the meeting.

5.4 Quorum

The quorum for a meeting of the Authority is a majority of Members.

5.5 Control of Meetings

The Chairperson will preside at meetings. In the absence of the Chairperson, the Deputy Chairperson will preside.

If both the Chairperson and the Deputy Chairperson are absent, a Member elected by the Members present will preside.

5.6 Decision Making

As far as is practicable the Chairperson or presiding board member will seek to reach decisions by consensus. If consensus cannot be reached, the decision supported by a majority vote of members at the meeting is the decision.

The person presiding at any meeting of the Authority has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

ILGA decisions will be reflected in the minutes and put to the Authority for approval at the following meeting.

5.7 Out of Session Decisions

ILGA may consider matters by the circulation of papers through its board portal or by email, in which case a written resolution approved in writing by a majority of Members is taken to be a decision of the Authority. ILGA may also conduct a meeting and make decisions via telephone or other electronic communication, provided any Member who speaks on a matter can be heard by the other Members.

Any decisions made out of session will be noted in the minutes of the next meeting.

5.8 Publication of Decisions

In accordance with legislation⁴, certain decisions must be published on the ILGA website. Publication will occur as soon as practicable.

The notice for Authority decisions will include a statement of reasons and, where appropriate, any penalty or sanction imposed, or any remedial action taken. The statement of reasons for decisions will include the findings (referring to relevant evidence or material), reference to applicable law and the reasoning that led to the conclusions drawn.

The statement of reasons for Authority decisions will be drafted by the OILGA and sent to relevant Members for consideration and approval. The Chairperson or their delegate will have final approval of all notices of Authority decisions.

5.9 Independent Advice and Compliance with Legislation

ILGA may obtain reasonable independent advice to assist it in the proper exercise of its functions and responsibilities.

6. Delegations

⁴ s36 Gaming and Liquor Act 2007; s 8 Gaming and Liquor Administration Regulation, 2016

ILGA may delegate the exercise of its functions to an authorised person or body, including a:

- Member,
- Public Service employee,
- Committee of ILGA.

A number of routine functions are delegated to officers of the Principal Department. The full list of the Authority's decision making functions, including delegated functions, are contained in the Regulatory Delegations Manual.

7. Code of Conduct

The ILGA publishes a Code of Conduct which must be adhered to by all Authority members and OILGA staff members. It is reviewed annually and may be amended from time to time.

8. Committees

The Authority may establish Committees to assist it in the exercise any of its functions, and may delegate any of its functions to a Committee.

The procedure for the calling of meetings of a Committee and for the conduct of business at a Committee meeting is to be as determined by ILGA or, subject to any delegation to it, by the by the Committee or its Chair.

The powers and responsibilities of each Committee are established by its Terms of Reference Each Committee must report on matters considered at its meetings to the next ILGA meeting.

9. Recognising and Managing Conflicts of Interest

9.1 Declarations of Pecuniary Interests

Members must declare any pecuniary or non-pecuniary interest for the register of interests which will be tabled at each meeting in the form set out in the NSW Government Guidelines for Boards and Committees. Members should provide updated declarations as appropriate.

Completed declarations are retained by the OILGA and available to the Minister as requested.

In addition to the requirement to register ongoing interests, a Member must disclose any potential conflict of interest in relation to any matter before the Authority and may recuse him or herself from discussion of, or decision on the matter. Notwithstanding any such decision by the Member to recuse him or herself or not, ILGA may determine whether the Member must withdraw from discussion of, or decision on the matter. The disclosure and the decision of the Authority must be recorded in meeting minutes.

10. Audit and Risk Management

ILGA has entered into a shared services arrangement with the Principal Department in relation to the provision of internal audit and risk management services for the purpose of complying with the requirements of NSW Treasury's *TPP20-08 Internal Audit and Risk Management Policy for the General Government Sector*.

The Principal Department will provide services relating to the:

- Audit and Risk Committee and Secretariat,
- Chief Audit Executive,
- Internal Audit Function.

These arrangements are detailed in the Shared Arrangement Agreement and the Memorandum of Understanding.

11. Indemnity for ILGA members

The ILGA and OILGA are indemnified by insurance provided through the Treasury Managed Fund (TMF). The TMF covers the ILGA and OILGA in respect of the following activities:

- Legal liability, including, but not limited to public liability, liability for claimed misleading representations, professional indemnity and director's and officer's liability
- Statutory liability
- Workers' compensation liabilities under NSW legislation
- Other miscellaneous covers including, but not limited to, employee dishonesty, personal accidents and travel (domestic and international)

The TMF only applies to activities of the ILGA and OILGA which are undertaken in the course of their duties.

12. Work Health and Safety Obligations

The Authority is committed to providing a safe and healthy workplace and Members must ensure health and safety risks are eliminated or minimised so far as is reasonably practicable. The Authority is responsible for ensuring systems and processes are in place to maintain a safe and healthy working environment. In that regard the Authority relies on the Principal Department to deliver services required to comply with certain of its obligations, for example, building services, facilities management, and employee assistance.

13. Financial Management

13.1 Authority budget and reporting

The Authority relies on Principal Department for the provision of sufficient financial and other resources to enable it to perform its statutory functions and to comply with all relevant requirements.

ILGA is responsible for considering the adequacy and appropriateness of its annual budget and for monitoring the financial reports with the objective of addressing any major departures from projected expenditure and providing input for future years' budgets.

13.2 Reimbursement of reasonable expenses

ILGA members and OILGA staff members can make a claim for any reasonable travel, accommodation or out of pocket expenses incurred when attending any duly authorised ILGA-related meetings consistent with policy, however not in connection with attendance at the ILGA-office location or any other Sydney-based location, for regular scheduled ILGA board meetings.

14. Reporting

14.1 Performance Monitoring

ILGA will conduct a formal review of its performance at a minimum of every five years.

The Authority will inform the Minister, the Secretary of the Principal Department, and the Deputy Secretary Hospitality and Racing of significant issues and events, in particular, emerging or existing risks.

14.2 Annual Reporting

The Authority will prepare an annual report in accordance with NSW statutory requirements under the *Government Sector Finance Act 2018*. ILGA's annual reports will be published on ILGA's website.

15. Government information and public access

The ILGA is a government agency for the purposes of the *Government Information (Public Access) Act 2009 (GIPA Act)*. It has legal obligations to make government information available. Under the *GIPA Act*,

it is generally presumed that all government agencies will disclose or release information, unless there is an overriding public interest against doing so.

15.1 The GIPA Act:

- requires the ILGA to publish information defined as ‘open access information’ on its website
- authorises and encourages the ILGA to proactively release government information
- allows members of the public to make informal requests to ILGA to access government information
- gives members of the public a legally enforceable right to access government information from the ILGA by making a formal access application
- ensures that access to government information is restricted only when there is an overriding public interest against releasing that information.

15.2 Open access information – published information

The ILGA publishes the following open access information as required under the GIPA Act:

- ILGA Agency Information Guide
- ILGA Charter
- ILGA Code of Conduct
- ILGA Public Interest Disclosures Policy
- ILGA Data Breach Policy
- ILGA Strategic Plan
- ILGA Annual reports
- Other documents tabled in Parliament concerning ILGA
- Through the Principal Department, a disclosure log of information released under a GIPA decision that may be of interest to other members of the public
- Through the Principal Department, a record of any open access information that is not made publicly available due to an overriding public interest against disclosure.

15.3 Release of government information

In accordance with the principles of openness, transparency, and accountability, ILGA publishes the following information:

- delegations of statutory functions
- board meeting notices and outcomes
- fact sheets, guidelines, and reports
- ILGA publications and guidelines
- discussion/research papers.

15.4 Requests for information under the GIPA Act

ILGA deals with requests for government information informally where possible. Information is made available in response to an informal request unless there are good reasons for not doing so, such as considerations that must be taken into account before deciding if the information can be released.

Where requests cannot be dealt with informally, a formal application can be made under the GIPA Act. This gives a person a legal right to access the information unless there is an overriding public interest

against release. The Principal Department supports ILGA in processing formal GIPA requests including disclosure log publication requirements.

16. Review of the Charter

The OILGA will coordinate a review of the ILGA Charter on an annual basis.

17. Related Documents

17.1 Legislation

- 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
- Independent Commission Against Corruption Act 1988
- Work Health and Safety Act 2011
- Ombudsman Act 1974
- Public Interest Disclosures Act 1994 No 92
- Privacy and Personal Information Protection Act 1998

17.2 Policies

- Statement of Ministerial expectations
- Code of Conduct
- Other internal policies and procedure documents (e.g. DEIT Audit and Risk Committee Charter, DEIT Internal Audit Charter)