



Memorandum

To: Club and Branch Presidents, Secretaries, Directors of Lifesaving and Surf Sports, Competition Directors, Members
From: Steven Pearce, Chief Executive Officer
Date: 29 October 2019
Pages: 4
Subject: SLSNSW policy on members acquiring private financial benefit from SLS activities

The SLSNSW Board has recently considered the issue of members acquiring private financial benefit from SLS activities and has determined a Policy be developed to specifically address this issue.

In its deliberations, the Board has considered a raft of implications and risks related to members receiving payments or financial benefit for their services related to SLS activities. These implications include potential exposure of members as individuals, club officials and club entities themselves with respect to taxation, workers compensation and insurance.

It has also considered the reputational risk to individual members, clubs, Branches and SLSNSW more broadly, where members are seen to be gaining financial advantage for what are considered volunteer services. The Board was also mindful to ensure members who were appropriately engaged in contract and/or employment agreements were recognised within the policy.

The following key risks to our members are reflected in the policy:

- Members of SLSNSW are recognised under legislation by icare (previously Workcover) for workers compensation related to personal accident which occurs as a result of their **volunteer** activities in surf lifesaving. Where members are being paid, they are not included in these volunteer workers compensation provisions and are only then covered where the engaging entity (eg a club) has taken out the appropriate policies with icare for employees and contractors. For example, members being paid to undertake water safety at a surf sports carnival are not covered under icare unless the club has included them in their workers compensation premium payments and disclosure documentation.
- The SLSA group insurance policy may be invalidated dependent upon the circumstances where a member considered to be undertaking voluntary surf lifesaving activities is being paid. This extends to both personal accident cover and public liability.
- The Club executive may be exposed legally where they are knowingly paying members for services and failing to meet mandatory workers compensation reporting and premium payment requirements.
- Members and clubs may place themselves in an unfavourable situation with respect to the Club, Branch and/or SLSNSW charity registration where they are paying members for services and not recognising the engagement through an employment or contractor agreement.
- Club executive may be placing themselves in breach of the relevant employment award for the tasks undertaken by individuals through underpayment of wages and/or the non-payment of superannuation, and other entitlements. They may also be placing themselves at risk with respect to withholding and reporting appropriate taxation or GST information to the Australian Tax Office.



As identified above, there are a variety of significant issues and consequences related to the engagement and payment of individuals. It is the position of the SLSNSW Board that it fully inform and assist Clubs and Branches to ensure that they are compliant with the various Laws and regulations as well as internal SLS policies related to engagement of individuals and members.

Should clubs and members have any questions regarding the policy and its implantation, I would encourage you to speak with your Branch President or contact Phil Ayres – Chief Operating Officer at SLSNSW (payres@surflifesaving.com.au) .

FREQUENTLY ASKED QUESTIONS

Members have received incentives to help out with lots of tasks at clubs for years, and this is a way of recognising them.

Why has this changed now?

The current SLSA policies and the legal aspects noted in the memo have always been in place. However, the Board in consideration of feedback it is receiving as to what is occurring at clubs and events has looked to make it very clear through this policy what members can and can't do with respect to receipt of payments for services. The board is committed to ensuring clubs, Branches and members alike are compliant with SLS policies and legal requirements, and importantly are aware of any risks they maybe exposing themselves to through these types of practices.

What if members are paid at Aussies, does this policy apply to them?

Yes, this policy applies to all SLSNSW members regardless of where any payments are made, or services provided. As noted above, SLSNSW believes these provisions apply across all members of SLSA, but it will be a matter for individual states or SLSA itself to enforce these types of sanctions against members in other states.

How do clubs reimburse members for expenses, does this mean we can't do that?

Members should absolutely be reimbursed for any direct expenses they incur by way of their involvement in any SLS activities. We recommend each branch and club has a clear policy on expense reimbursement and this is backed up with submission of receipts and authorisation by the appropriately authorised club/branch executive. Indeed, SLSNSW itself has a very clear policy on both staff and volunteer reimbursements.

What sort of agreement do we need to have in place if we do pay members?

If the branch or club elects to continue the practice of paying members, then it is strongly recommended that you seek professional advice based on the nature and duration of the engagement. There are very specific laws around engagement of individuals by businesses/clubs and its important clubs comply with the relevant legislation.

SLSNSW and Branches often pay members for their work, why doesn't this apply to them?

This policy applies to all SLSNSW members and SLSNSW affiliated clubs/branches as well as SLSNSW itself. SLSNSW employs many members in administration, as well as lifeguards with the ALS and many members as casual trainers and safety/first aiders at events the AESS provides services for. These individuals are either engaged via an employment agreement or specific contract of engagement.

If members do receive money without an official agreement in place, who is at fault, the member or the club?

This policy applies to both members and clubs. If disciplinary action was to be taken by SLSNSW, consideration would include all circumstances to determine whom it will be taking any action against. Members and clubs should also be aware various government agencies may also seek to undertake actions based on the circumstances they become aware of.



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Does this mean club's will have higher icare premiums?

Quite possibly yes. Workcover premiums are determined on the nature of the work undertaken by employees and contractors as well as the number of individuals a business has engaged. Clubs and Branches should contact icare directly to ascertain what reporting is required and what changes to premiums may apply.

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SURF LIFE SAVING NSW POLICY

MEMBERS ACQUIRING PRIVATE FINANCIAL BENEFIT FROM SLS ACTIVITIES

1. Purpose

The purpose of this Policy is to clarify the limitations and disclosures required of members with respect to receipt of payments for services undertaken in relation to Surf Lifesaving activities.

2. Commencement of this Policy

This policy commences on 1 November. Unless the context otherwise requires, terms used in this policy have the same meaning as in SLSNSW's Constitution and/or Regulations.

3. Background

- A. Members are reminded that Surf Life Saving New South Wales (**SLSNSW**) and its Branches and Clubs are all not-for-profit entities. SLSNSW is also a registered charity with the ACNC and under the *Charitable Fundraising Act 1991 (NSW)*. Many SLS Entities are also registered with the ACNC.
- B. All SLS Clubs & Branches are prohibited by their respective constitutions from conducting their affairs so as to provide monetary gain for their members unless a contract for services and/or employment is entered into between the parties specific to the nature of services to be provided.
- C. An individual member should NOT derive a profit or monetary gain either directly or indirectly from their Club or Branch save for circumstances noted in point B above. Should an SLS Club or Branch act contrary to this, its not-for-profit, tax exempt status as well as charitable status may be affected. Such act would also be contrary to the Club or Branch's constitution and possibly breach the *Associations Incorporation Act 2009 (NSW)*.

4. Providing Services for other SLS Entities

- i. Should any individual member of an SLS Club, Branch wish to provide services to either their own Club or Branch or any other SLS Club or Branch and/or SLSNSW for financial gain:
 - (a) that member must enter into a contractual agreement as per point B above with the Club, Branch or SLSNSW;
 - (b) the engaging Club Branch or SLSNSW should understand and comply with its obligations under taxation, work health and safety, insurances or any other act or legislation related to the contracting and/or employment of the individuals; and
 - (c) that member must not source and utilise any SLS assets from another SLS Club, Branch or SLSNSW to enable them to fulfil the contract of service. For the absence of any doubt and by way of example, if a member were contracted to provide water safety services to a club or at an SLS sanctioned event, they are prohibited from utilising SLS assets from another club to enable them to fulfil that contract. Any use of SLS assets shall be properly agreed and documented between the event organiser and the Club, Branch or SLSNSW providing the assets.
- ii. Should any individual member of a Club, Branch or SLSNSW be providing services on behalf of their own SLS Club or Branch to other SLS Club, Branch or SLSNSW:



- (a) if the member is to receive a payment, that member must enter into a contractual arrangement as noted in B above, with their Club, Branch or SLSNSW;
 - (b) that member cannot receive any payment directly from the Club, Branch or SLSNSW to whom the services are being provided;
 - (c) any payment for the services must be made directly to the member's own Club or Branch or to SLSNSW. This payment MUST not be made "via" the member in any way or form; and
 - (d) the provision of services and any payment for those services must be subject to a services agreement between the relevant Clubs, Branches and/or SLSNSW.
- iii Should any individual member of a Club, Branch or SLSNSW be providing services on their own behalf to a non-SLS entity (ie a company or other organisation) it is expressly prohibited that any SLS asset is utilised to deliver those services. For the absence of any doubt and by way of example, if an individual member was providing private water safety services to a private client, they must not use or utilise any SLS powercraft, rescue boards, first aid equipment, etc as part of fulfilling that service
- iv Should Club, Branch or SLSNSW provide services to non-SLS Entities (ie a company or other organization) the engagement of SLS members to provide that service should either be by way of them volunteering, or if they are to be paid, then a proper arrangement be entered into in accordance with point B above.
- v Members note that should they act contrary to the above that they place themselves and their Club, Branch or SLSNSW at risk from an insurance and iCare perspective and as noted, also place their Club, Branch or SLSNSW's not-for-profit status at risk and may potentially impact SLSNSW's charitable fundraising status and authority.

5. Breaches

A Breach of this policy may result in disciplinary action being taken against the member as per the SLSA Disciplinary Policy

6. Variations

SLSNSW reserves the right, replace or terminate this policy from time to time

Policy Version & Revision Information

Policy Authorised by: SLSNSW Board 21 October 2019