

New 2023 Harm Minimisation Regulations and New Compliance Tools

Jarrold True – Clubs New Zealand 20/7/23

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Today's Aim

- To outline the tools and support available from Club NZ to help meet the new requirements.
- To make everyone aware of the new requirements that are coming.
- To highlight some of the finer details of the regulations and potential workarounds.
- To share the feedback received to date from club staff as to how to make implementation easier and reduce the instances of staff being abused by players.
- To make everyone aware of the likely DIA audit tools (including remote audits).

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Today's Aim

- To make you aware of the potential consequences for non-compliance.
- To clarify the date when each requirement comes into force.
- To set out the tools that Clubs NZ and Coms can offer to assist with compliance.

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New Training – 1 Sept

- The training is now likely to be 2-3 hours. Clubs NZ will do group training seminars in each region. Future training will be available via video conference.
- The training must be provided to anyone who supervises gambling in the course of their duties at the club. The training does not need to be provided to non-gaming staff.
- All staff who supervise gambling must be trained under the new system by 1 September 2023.
- One person who has undertaken training must be present at the club when the machines are available to be played.

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New Training – 1 Sept

- The training must now:
 - Be more interactive and practical. Expect role play sessions on how to interact with players, how to provide advice to players, and how to deal with distressed or agitated customers. Online training without a live presenter, or some form of interactive component, will no longer be acceptable.
 - Include information on how the machines work and why they can be addictive.
 - Include first-hand accounts from problem gamblers.
 - Include details as to how to maintain records in accordance with the Privacy Act 2020.

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New Training – 1 Sept

- Training must be provided to club staff before they first start supervising gambling in the course of their duties at the club (induction training is required for new staff).
- Training must be provided at least once a year.
- The current HPA resources are not compatible with the new requirements. The current resources should not be used when all the requirements come into force on 1 December 2023.

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Deemed Signs of Harm -1 Sept

- We now have 7 deemed signs of harm.
- 4 of the 7 are what you would expect:
 - Attempting to borrow money from a staff member or club member to use for gambling.
 - Leaving children in a car or otherwise unattended at the club.
 - Refusing to stop gambling at the club when the club is closing, or otherwise appearing unable to stop gambling.
 - Appearing visibly distressed or angry either during or after gambling (for example, crying, holding their head in their hands, or hitting a machine).

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Deemed Signs of Harm -1 Sept

- 1 sign is slightly different:
 - Gambling during 9 or more consecutive gambling area sweeps (typically 3 hours or more).
- This rule only applies to persons actually gambling during the sweep, not to people who are in the room during the sweep.
- When is a player “gambling”? The same rules are likely to apply as the rules that relate to playing two machines at once.

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Gambling During 9 Sweeps

- Treat a player as “gambling” if their machine:
 - Has credits on it and is able to be played, whether or not it is actually being played.
 - Is reserved for them.
 - Is paused due to a player information display.
 - Is performing a feature, including free spins or a bonus game.

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Gambling During 9 Sweeps

- Treat a player as not “gambling” if their machine:
 - Is unable to be played because of a machine fault, even if the machine has credits on it.
 - If the machine has been placed in audit mode, even if the machine has credits on it.

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Deemed Signs of Harm -1 Sept

- 2 of the signs will catch a lot more people:
 - Waiting to gamble (any form of gambling) as soon as the club opens.
 - **Withdrawing, or attempting to withdraw, cash from an ATM or EFTPOS on 2 or more occasions in 1 day to use for gambling at the club.**
 - The first withdrawal made to commence play counts.

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2 Withdrawals

- The money must be used for gambling at the club.
- The regulation does not limit the gambling to class 4, gaming machine, gambling.
- Using money to place a TAB bet or purchase a raffle ticket counts.

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2 Withdrawals

- The regulation does not limit the withdrawals to withdrawals made at the club.
- If staff are aware that a player has withdrawn money at an off-site ATM earlier in the day to start play, that withdrawal counts.
- The requirement on club staff to act, however, only applies if the staff have identified a sign of harm. If staff do not know that an offsite withdrawal has been made, no action is required.

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2 Withdrawals

- Can the rule be avoided by the ATM being located outside the club (footpath facing) or in a separate building, such as a bowling pavilion?
- The ATM could potentially be moved to another building i.e., a different "venue". To be a different venue, the customers/members must consider the other premise to be an enterprise that is separate from the club.
- The separate enterprise would need to have its own external entrance, own opening hours, own advertising, and no internal access for members to move between the sites.
- However, if staff are aware that a player has popped out of the club to withdraw money to gamble at the club, that off-site withdrawal counts.

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2 Withdrawals

- ATM data shows 22% of ATM users make 2 withdrawals in 1 day.
- Technical support in development:
 - Tracking card use at the club's ATM and EFTPOS, and alerting to 2 withdrawals (requires the same card to be used).
 - Facial recognition above the ATM and in the gaming room to track and record withdrawals that are then used for gambling purposes.

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Deemed Signs of Harm -1 Sept

- From 1 September if you see any of the deemed signs, including 2 withdrawals, you must act as if a general problem gambling sign was observed:
 - Gentle check-in.
 - Record interaction.
 - Monitor for 3 general signs or 1 strong sign.
- From 1 December, different requirements apply. A more detailed conversation must be had, and more detailed records must be kept.

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Questions

- Questions re training requirements or the deemed signs of harm.

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Conversation Requirement – 1 Dec

- If one problem gambling sign is observed, a conversation must be had with the player to assist with identifying whether the player is a problem gambler.
- Just handing out a pamphlet is not enough.
- Just getting the player to sign an EFTPOS receipt that contains a problem gambling statement is not enough.
- Just asking how the player is doing today is also unlikely to be enough.

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Conversation Requirement – 1 Dec

- There must be a two-way dialogue that is gambling-related.
- The venue manager is liable for a \$1,000.00 fine if no conversation is had.
- The training provided by Clubs NZ will provide practical guidance on what is expected.

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Conversation Requirement – 1 Dec

- If one of the deemed signs is observed, you do not automatically have to stop the person gambling.
- The requirement is to have a conversation (which does not need to be an immediate conversation), to record what was observed and the action taken, and for the venue manager to subsequently review the records to determine whether any further action is required.

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Staff Abuse

- A lot of players will not be receptive to being asked about their gambling, especially if the reason for the conversation is merely the fact that they have made 2 withdrawals.
- Placing signage up now, advising players that the conversation requirement is coming, may help.
- Talking to your players now about the new rules that are coming may help. A general club announcement to the members regarding the new rules may be helpful.
- Placing signage above the ATM stating the that law requires staff to have a conversation about gambling if two withdrawals are made may help.
- Clubs NZ is working on providing suitable template signage.

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New Record Keeping – 1 Dec

- When one problem gambling sign is observed, a more detailed record must now be kept – 12 mandatory fields.
- The Coms/QEC incident register will be updated to meet the new requirements.
- New manual forms have been developed by Clubs NZ and can be downloaded from Clubs NZ's website for free.

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New Record Keeping – 1 Dec

- The mandatory fields are:
 - The name of the staff member who identified the sign of harm (automated via Coms' pin).
 - The date and time that the staff member identified the sign of harm (date will be automated, time can be adjusted).
 - Player's name, if known, or a general description of their appearance (manual entry).
 - Which sign of harm was identified (drop box selection to tick).

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New Record Keeping – 1 Dec

- The mandatory fields are:
 - The name of the staff member who had the required conversation with the player (default name will be the person who is making the record).
 - The date and time that the staff member talked to the player (date will be automated, time can be adjusted).
 - A summary of the conversation with the player (will include a drop box selection to tick from).
 - Any further action taken in respect of the player (will include a drop box selection to tick from).
- The venue manager is liable for a \$1,000.00 fine if a full record is not kept.

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Venue Manager Review – 1 Dec

- Within 7 days, the venue manager, or a person acting on behalf of the venue manager, must review each record to:
 - Assess whether the staff member has taken the appropriate action.
 - Assess whether further action is required in respect of a player.
 - Determine whether anyone is a possible problem gambler.

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Venue Manager Review – 1 Dec

- The venue manager must then:
 - Record the date of the review (automated).
 - Record any further action taken as a result of the review (will include a drop box selection to tick from).

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Reminder – Exclusion Order Requirement

- If the venue manager has reasonable grounds to believe the person is a problem gambler, the venue manager is required to approach the player and offer information and advice to the player on problem gambling, including advice regarding the self-exclusion procedure.
- The venue manager may then issue an exclusion order.

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New Record Keeping – 1 Dec

- \$1,000.00 fine if the venue manager does not do the record review.
- The review does not need to be done personally by the venue manager; the manager may delegate the review to another senior staff member.
- Records must be kept for 3 years (Coms/QEC records will be retained in the cloud for at least 3 years).

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Discussion/Questions

- Remove ATM and do all cash withdrawals via EFTPOS to make it easier to start the conversation? This creates serious cash handling risks and is therefore not recommended.
- Will placing signage above the ATM encourage players to make 1 larger withdrawal?
- Make software changes to ATMs to limit withdrawals to 1 per day?
- At busy clubs, employ a full-time gaming person to undertake the compliance tasks and act as a dedicated gaming service person?
- Would having a full-size keyboard to make records be helpful?
- Would having the ability to make records via a voice memo be helpful?

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ATM Location – 1 Dec

- ATMs must be in the line of sight of staff at the main bar/main service area of the club.

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Sweeps– 1 Dec

- Minimum 3 per hour.
- Must be at least 10 minutes apart.
- The venue manager is liable for a \$1,000.00 fine if 3 sweeps per hour are not undertaken.

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Sweeps– 1 Dec

- If the gaming room is empty and no sweep is required, the following must still be recorded:
 - The method used to verify the room was empty (e.g., live CCTV footage review).
 - The date and time that the sweep was not conducted.
- If the gaming room has a person inside it who is not playing a machine, a sweep still needs to be done. You cannot therefore rely on the QEC terminal to confirm that the room is empty.

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Sweep Recommendation

- Don't wait 15 minutes between sweeps. Get the sweeps done at 10-minute intervals to provide maximum leeway.
- 15-minute sweep alert example:
 - The first sweep is done at 1.25pm.
 - The next alert will be at 1.40pm, which results in a sweep being done at 1.44pm.
 - The next alert would be at 1.59pm which only gives one minute to undertake the sweep to avoid a \$1,000.00 fine.

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Sweep Recommendation

- Coms can provide a sweep alert option as follows:
 - 1st alert on the hour.
 - 2nd alert 10 minutes after the 1st sweep is complete.
 - 3rd alert 10 minutes after the 2nd sweep is complete.
 - No more alerts once 3 sweeps in the hour have been done.

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Sweep Records – 1 Dec

- A record must be kept of each sweep.
- The Coms/QEC will be updated to include the required sweep record.

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Sweep Records – 1 Dec

- The following must be recorded:
 - The name or ID of the staff member who conducted the sweep (automated).
 - The date and time that the staff member conducted the sweep (automated).
 - How many players were present in the gaming room during the sweep. This includes players in the gaming room who are not currently playing the machines. They only have to be present, not actually gambling.

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Sweep Records – 1 Dec

- The following must also be recorded:

Evidence of the steps taken to monitor and identify whether players have been gambling during consecutive gaming room sweeps.

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Sweep Records – 1 Dec

- DIA doesn't know how to comply with this. Recording everyone's name or description would be extremely time-consuming and impractical.
- Simply keeping a track of people who have been gambling for 3 hours does not meet the formal requirement.
- One option may be to install a 360-degree camera in the room and have the system take and store a photo of who was in the room during the sweep. The photos could then be reviewed if staff were concerned that someone had been gambling during 9 consecutive sweeps.
- Another option is for a screen shot to be taken from the CCTV montage.

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Discussion/Questions

- Would an in-room tablet to record sweeps help? Theft issues? Charging issues?
- Would a mobile tablet help?
- Would it help if the compliance display screen was modified to be used to enter sweep information?
- Would a mobile phone app that prompts you to do a sweep and allows you to record the sweep help?
- Would having a fob or swipe card be better than entering a PIN?
- Having the ability to record the sweeps while in the room ensures the automated sweep time is accurate and avoids situations where staff get distracted or interrupted returning from a sweep to input the record on the QEC terminal at the bar. Avoids recording a sweep while customers are waiting to be served.

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Machines Cannot be Visible from Outside the Club – 1 Dec

- The gaming machines can no longer be visible from outside the club.
- The gaming machines can be visible intermittently when an external door is being opened and closed.
- The rule is from outside the building, not outside the property. The machines cannot therefore be visible from the car park.
- It is likely to be acceptable if the machines are visible from an external courtyard, smoking area, or garden bar that can only be accessed from inside the club.

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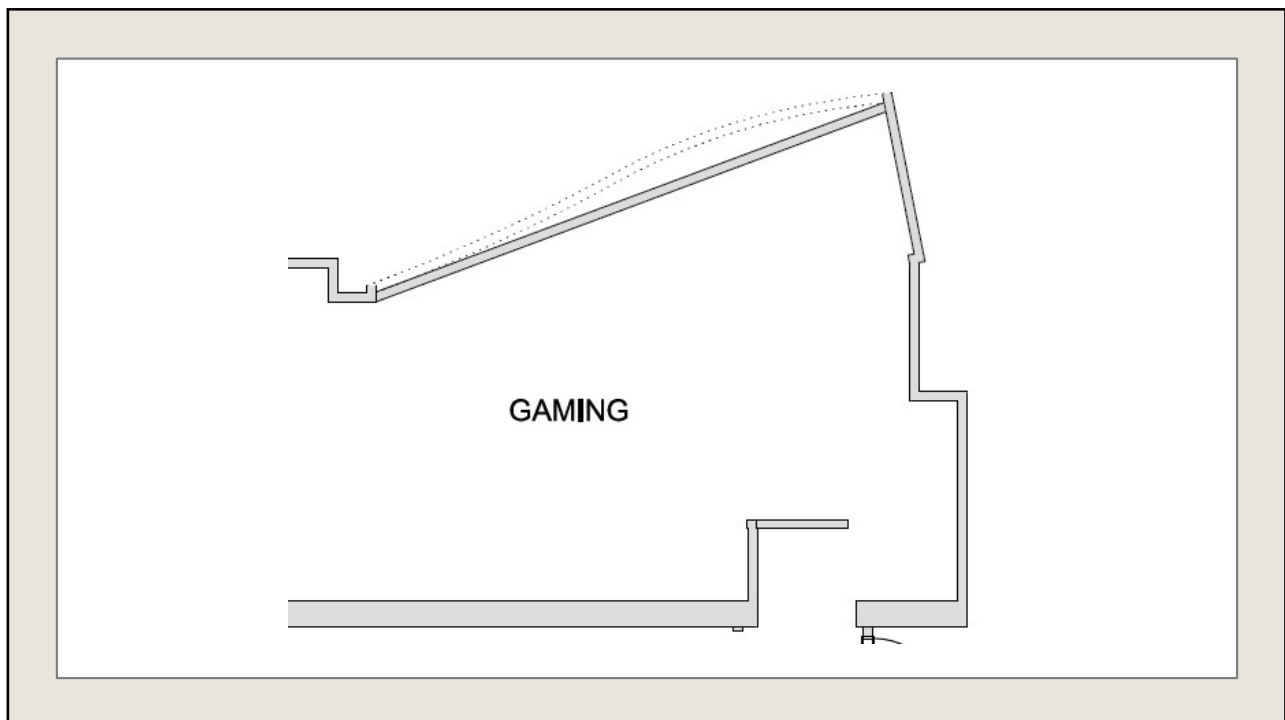
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Machines Cannot be Visible from Outside the Club – 1 Dec

- The rule doesn't apply if the gaming room is not defined (in such cases the club cannot have an ATM and excluded persons are prohibited from entering any part of the club).
- External gaming signage is still permitted.

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DIA Audits

- DIA will audit clubs.
- DIA is now more enforcement- and prosecution-focused.
- DIA can request copies of your records without visiting your club.
- DIA will apply a targeted approach: auditing more frequently clubs that have been found to be non-compliant in the past.

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Likely Consequences for Non-Compliance

- First breach – warning.
- Second breach – warning or \$1,000.00 fine.
- Third breach – \$1,000.00 fine.
- Fourth breach within 6 months – proposal to cancel gaming licence based on key person unsuitability.
- The Department could also seek to charge the venue manager with the more serious offence of failing to use the venue's harm minimisation policy.

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Venue Manager Prosecution

- Each club's harm minimisation policy will need to be updated to include the new minimum requirements. Clubs NZ has developed a new template that can be used.
- The venue manager must take all reasonable steps to ensure that the harm minimisation policy is used to identify actual or potential problem gamblers: s 308(4).
- A breach of this requirement is a criminal offence punishable by a fine of up to \$5,000.00.
- A charge will result in significant media interest.
- A conviction will also result in a finding of key person unsuitability.

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Trial Run

- You may wish to implement the requirements early (say 1 November) and have then undertake an internal audit to see if there are any areas that require attention.
- We expect the Coms system will include a regular reporting function that can alert club management when sweep records have been missed.

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Questions Welcomed

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