

Clubs Australia Feedback: Draft Guidance on the Changes to the Tipping Off Offence (Commencing 31 March 2025)

Clubs Australia appreciates the opportunity to provide feedback on the proposed updated tipping off guidance. This response incorporates input from members on the guidance and key issues raised.

Clubs Australia has set out its response to the questions below, including identifying where areas may be unclear or where practical examples would enhance the guidance.

A. QUESTIONS

1. Additional situations where tipping off risk may arise and common controls that can be adopted to ensure disclosures do not prejudice an investigation.

- Instances of potential tipping off risk for clubs would generally fall into three categories: **employee, customer/member, and local business groups**. Providing practical examples and scenarios with recommended and prohibited responses would help clubs navigate AML risks effectively. It is essential to incorporate specific examples related to clubs and pubs rather than those concerning casinos or banking.

a. Employee situation

Club staff may face uncertainty about what constitutes a legitimate internal disclosure versus a prohibited one. The guidance should include specific scenarios that set out both compliant internal communication and instances where failed controls could lead to a tipping off offence.

For example, a scenario where a Club CEO discusses potential AML/CTF trends/issues in their club with their senior management without referring to a specific Suspicious Matter Report (SMR) or individuals would be considered a legitimate disclosure. However, informing all staff that a customer was reported in an SMR could constitute tipping off.

Legitimate disclosure	Prohibited disclosure
An example of disclosing SMR information to staff without tipping off	An example of when disclosing SMR information to staff may be considered a failure to implement appropriate controls to reduce the risk of tipping off.

b. Customer/Member situation:

The tipping-off guidance should include an Enhanced Customer Due Diligence (ECDD) example such as an operational situation where ECDD may be required and provide suggested defensible reasons for conducting source of wealth/funds checks with gambling customers.

For example, a gaming floor attendant observes a patron loading cash into gaming machines and cashing out without placing a bet. Trained gaming staff recognise this as a potential AML/CTF risk and follow internal reporting procedures. After review, the AML/CTF Officer submits an SMR to AUSTRAC, triggering ECDD.

Legitimate disclosure	Prohibited disclosure
An example of conducting a source of wealth/funds check without tipping off	An example of prohibited disclosure during a source of wealth/funds check

c. Group of local businesses situation:

The AML/CTF risk-based regime encourages information sharing, which can conflict with tipping off provisions. The guidance would benefit from examples of how clubs could share suspicions in good faith with other businesses in the community to dissuade criminal activity without breaching tipping off rules.

For example, a club develops ongoing suspicions about a group of customers after lodging multiple SMRs and conducting ECDD. The club wants to act in good faith by informing other licensed premises (with gaming) to deter further potential criminal activity.

Legitimate disclosure	Prohibited disclosure
An example of how and when a club can share suspicions with other businesses in good faith.	An example of improper disclosure when sharing suspicions not in good faith that breaches tipping off provisions.

2. Alternative and defensible reasons (unrelated to SMR/notice information) that are usually used in your industry to engage with suspicious customers or employees (e.g., to obtain ECDD information or inform them as to why you are no longer providing services to them).

Clubs collect relevant customer information during membership sign-ups, which can support engagement with suspicious individuals before an ECDD trigger. Clubs also require mandatory sign-ins for guests and temporary members. This regulated requirement can also justify further engagement with non-member suspicious customers.

B. ADDITIONAL COMMENTS

Clubs Australia provided the following general comments on the guidance:

Section / Theme	Clubs Australia comments
Regular reviews of guidance	Clubs Australia recommends that the guidance be treated as dynamic, and updated regularly to reflect emerging trends, regulatory changes, and industry developments. In addition to periodic reviews, AUSTRAC should ensure the guidance remains adaptable to the evolving risk landscape and stakeholder feedback.
Law enforcement and regulatory bodies	The second point lists certain regulated entities, potentially causing confusion about which agencies information may be disclosed to. Clubs Australia suggests including state or territory agencies that regulate report entities such as gambling regulators.
Dissuading clients or customers from criminal activity	The third and fourth exemptions from the tipping-off offence apply to businesses employing legal practitioners or qualified accountants, potentially covering various businesses. Including examples like law firms or accountancy firms would help.

<p>Formatting and plain English</p>	<p>The guidance is relatively clearer than previous material but remains lengthy and complex. AUSTRAC may consider using colour text boxes or formatting to highlight important notes in plain English.</p>
<p>Sector specific examples</p>	<p>Given that the guidance applies to all reporting entities and will be updated for new categories of reporting entities once commenced, Clubs Australia welcomes AUSTRAC's consulting with the industry to develop shorter, sector-specific plain English guides with relevant examples.</p>

Should you require any further information from Clubs Australia regarding this submission, please do not hesitate to reach out at [REDACTED]