

## Overview of Member Loans to Clubs

Racing Queensland is aware that clubs occasionally borrow money from members to help with working capital or other funding arrangements. Any loan, whether documented or not, is a legal arrangement with significant rights and obligations. The purpose of this factsheet is to give clubs high-level guidance on key considerations before entering such an arrangement. Racing Queensland strongly recommends that all loans from members to clubs are documented, so that there are no misunderstandings.

### 1. Loan Approval

Subject to 3.3.4 of the Management of Licensed Clubs Policy, clubs are required to seek written approval from Racing Queensland prior to entering into any loan/financing arrangement.

To seek approval please direct your request to [ClubCompliance@racingqueensland.com.au](mailto:ClubCompliance@racingqueensland.com.au) and provide full details of the proposed loan arrangement.

### 2. Minimum Requirements

A basic agreement can be set up as a table covering off the following key points:

Topic / Item:	Guidance Notes:
Borrower:	This should be the legal name of the club, the ABN, the address, and the contact details of the appropriate club representative.
Lender:	This should be the legal name of the lender, including an ABN if applicable, their address, and contact details.
Loan Amount:	Specify clearly how much will be borrowed.
Security:	This should be "Unsecured", as normally the club would not provide the Lender with security. If security is contemplated, see the discussion below in part 2 of this factsheet.
Drawdown details:	Insert details of when (date) and how the loan will be made.
Interest Rate:	If no interest applies, specify as "Nil". Otherwise, insert interest rate and how calculated. E.g. "X% per annum compounded monthly".
Repayment Arrangements:	Specify when (dates) and how the Loan Amount and any Interest is to be paid. This could be a schedule of payments or a lump sum.
Borrower Signature:	Make sure that the club's internal governance requirements are met, so that whoever signs on behalf of the club has appropriate authorisation in accordance with the club constitution. They would then sign a "duly authorised representative" of the club.
Lender Signature:	If the Lender is a person, their full name should appear under their signature. If the Lender is a company or trust, the name of the signatory should be included, and words saying that they are the "duly authorised representative" of the named Lender.

### 3. What Other Issues should be Considered?

As Racing Queensland does not know a club's individual circumstances, clubs are recommended to obtain independent legal and financial advice before entering loan agreements. Every loan is different, and bank documents demonstrate that what might seem straightforward can in fact involve very complex documentation to deal with many uncertainties.

The following points are designed to give clubs insight into just some (and certainly not all) of the complexity which may arise:

Topic / Item:	Some Issues to be Considered:
Interest Rate Changes:	Is the interest rate able to be changed? If so, does the interest rate move in line with a benchmark or does the Lender set the interest rate within their discretion?
Maximum Interest Rate:	Under s.128 of the <i>Racing Act</i> , non-proprietary licensed clubs are restricted from paying revenues or profits to members, and under s.128(3)(a)(i) there is a restriction on the interest rate which can be applied to loans from members.
Accounting Treatment:	All borrowings need to be recorded in club finances, and the club will need to ensure that it remains in compliance with financial requirements after considering the borrowing.
Security:	<p>Lenders would often prefer to take security over a hard asset, such as real property. RQ recommends against security being granted. In any event, for non-proprietary clubs multiple approvals would be required under s.129 of the <i>Racing Act</i>:</p> <ul style="list-style-type: none"> <li>• Members must have approved the security being granted; and</li> <li>• RQ approval is required as security is a form of “dealing” with an asset; and</li> <li>• Ministerial approval is required before granting security over the club's licensed venue or places for exercising and training animals.</li> </ul>
Unexpected Events:	<p>What happens if unexpected events arise? For example:</p> <ul style="list-style-type: none"> <li>• If the Repayment Date is an event (e.g. a government grant is received), what happens if the event does not happen or is seriously delayed from what is expected?</li> <li>• What if the Borrower needs the money back due to unexpected needs?</li> </ul>
Breach by Borrower:	<p>Both Borrower and Lender should be aware of the consequences of a breach of the obligation to repay the Loan Amount. On a simple loan, the Lender's only recourse might be to seek recovery of the debt. Many Lenders draft more complex clauses giving them additional rights upon a Borrower's breach, such as:</p> <ul style="list-style-type: none"> <li>• Applying a higher interest rate;</li> <li>• Bringing forward the repayment date; or</li> <li>• Having the right to take possession of assets provided as security.</li> </ul>

	Alternatively, some Borrowers may wish for time to remedy any breach before further action is taken.
Financial Covenants:	Banks normally often impose covenants on borrowers either preventing further borrowing or requiring the borrower to maintain specified financial ratios.