**Considerations for Clubs**
**Practices of Screening Potential Members**

There are a few practices clubs commonly utilize to screen members. These practices have different types of risks associated with them. Below are some of the practices, some of the considerations and things to consider incorporating to mitigate risk should you choose to continue these practices. *(While legal counsel was consulted in gathering this information, it in no way constitutes legal advice, as each organization is different and if you have questions or concerns, we recommend you seek legal advice specific to your practices as well as consulting with your insurance provider.)*

**Screening**
The practice of posting the names of potential members for current members to review and consider before the person is accepted into membership.

This practice as well as the habit of needing potential members to be endorsed by current members, creates a barrier to membership and does not promote diversity and overall growth in your membership. It also creates risks related to issues such as privacy and/or defamation.
A club may want to consider consulting with its insurance broker regarding coverage in relation to such a practice.

To mitigate these risks, the below are actions that should be implemented at a minimum:

- the potential member's name should not be posted on a publicly accessible physical bulletin board – and certainly no other information would be posted in this manner
- a club should consider posting:
    i. only the member's name;
    ii. on a password-protected webpage to which only club members have access;
    iii. such that members with access to the webpage have no opportunity to comment on the webpage but rather are informed (through a note on the webpage) that any member objecting to an application can contact the relevant person (Director, General Manager etc.– depending on the club's procedures) to discuss the objection.

**Sharing Information between Clubs**
Information on members shared between clubs occurs when club leadership (Board/General Managers) share information openly amongst themselves about people they have had as previous members. When someone wants to be a member at Club A and they know the person was previously a member at Club B they would simply email Club A and ask about the individual without the individual's knowledge, and Club A gives blunt and complete information. Sometimes clubs also proactively share with other clubs in the area information regarding issue(s) that they have had with a previous member or individual.

Legal opinion suggests this practice carries risk which could include one or any combination of:

i. a potential claim for breach of privacy (which may be based on statutory privacy law, common law related to privacy, contractual provisions or policy provisions);
ii. a potential claim for a breach of a club's privacy policy (depending on its terms);
iii. a potential claim of defamation;
iv. a potential claim of intentional interference with contractual relations;
v. a potential claim of intentional interference with economic relations;
vi. a potential claim of negligence including in relation to references (which could be brought in relation to negative or positive references).

Some suggestions to consider as a club looks to mitigate the above risks are listed below. It is likely that multiple items will apply to each club. Clubs should consider seeking specific legal advice and consultation with their insurance provider to discuss coverage related to these practices.

i. a club should consider its privacy policy before acting in this manner;
ii. a club should consider its membership documentation before acting in this manner;
iii. a club's privacy policy could be written or amended to address such practices (although issues such as policy implementation, membership awareness and marketability might be considered);
iv. a club's membership documentation could be written or amended to address such practices (although issues such as implementation and marketability might be considered);
v. a club could limit the information it is willing to communicate in this regard – although communicating anything could attract risk;
vi. a club should ensure that any information it is willing to communicate in this regard is completely accurate – although communicating anything could attract risk;
vii. a club should consider a situation very carefully before it communicates unsolicited information;
viii. a club should consider a situation very carefully before it communicates solicited information – including the reason for the inquiry and the person inquiring;
ix. a club should assume that even if communication is not in writing it may be recorded by others (legally recording can take place as long as one person has knowledge of the recording) ;
x. a club should consider management of its own records and the retention protocols in relation to such a practice;
xi. a club could consider reporting significant issues to an appropriate third party (such as for example the police (in appropriate circumstances)) such that the relevant information is handled – and even disseminated as appropriate - by that third party;
xii. a club should consider whether such a practice is being conducted in good faith in the best interest of the club – which question relates to protection of the club and of those individuals involved in the practice.