

APPOINTING A MANAGER

Guidelines and Tips

Managers, player agents, etc, can assist you to manage your career and maximise your earning potential. They are primarily engaged to assist in negotiating playing contracts and marketing contracts. However, some managers may also provide a range of other admin, financial and accounting services.

Before you appoint a manager there are some key things you should consider.

How do I choose a manager?

Some athletes choose a family member to represent them. Others seek assistance from a professional manager or company. Your manager should be someone you trust and who understands your sport and the opportunities available. Ask around. Consider what people you trust say about the manager or their company.

Some things to consider when thinking about choosing a manager:

- Some sports only allow an athlete to be managed by a relative, or by someone with certain accreditation or qualifications. Does the person or company you are considering have these?
- If you are engaging the services of a professional management company, confirm which individual(s) will act as your manager. Meet with this person and ensure you are comfortable with them.
- Understand how hands-on your manager will be. Will they delegate to other people? Delegations should only occur with your approval.
- Consider who else the manager/company represents. If the manager represents other athletes or coaches, there is the potential for conflicts of interest to arise. How are these handled?

Does it need to be in writing?

Yes. It is important that your agreement with the manager is in writing signed by yourself and the manager. The agreement should make it clear what services the manager will be expected to provide. It is important to ensure that the management agreement is finalised and not partially negotiated.

Some managers or companies have a standard management form that athletes sign. You should always seek professional advice before agreeing to sign such a form, even if it is a form approved by your sport.

How is a manager paid?

Managers are typically paid by receiving a commission. That is, they take a percentage (a "cut") of the income from arrangements they help you with. This is usually either or both:

- Playing income (income such as salary or prize money); or
- Marketing income (income from sponsorships, endorsements, licensing of your image, media and other appearances, etc).

It is up to you and your manager to negotiate the amount of the commission to be paid. Typically commissions for playing income are lower than commissions for marketing income. The agreement should specify the circumstances in which the manager will receive these payments. Some things to consider:

- It should be clear whether the manager is entitled to a commission on *any* income earned while they are your manager, or just arrangements they had direct involvement in.
- The agreement should also specify whether the manager is entitled to payment for any contra arrangements (arrangements where you receive goods or services rather than money), and reimbursement of any expenses.

- Some managers will want to collect income on your behalf and then pass this income on to you after deducting their fees. You should think carefully before agreeing to any such arrangement.

How can I end a management relationship?

You and the manager will want the right to terminate the management agreement if the other party has breached a material term of the agreement. You may also want to consider including termination rights if the manager does not meet certain targets or goals, for example: if income from marketing does not reach a certain minimum threshold, or if the manager is involved in any activity which may adversely your reputation.

Other things to think about:

Trailing commissions – some managers may insist that they continue to receive commissions from arrangements they helped you negotiate even after you've parted ways with them. These are known as trailing commissions. Managers like them because they protect the manager from getting fired right after they've helped you secure a big sponsor. But you need to be careful with exactly what they might include. Your management agreement should clearly set out what commissions, if any, the manager receives *after* the agreement ends.

Authority – it is important to carefully set-out the scope of the manager's authority. It should be clear that *you* make the final decision on what agreements *you* enter into. The manager should also be made aware of any restrictions on engaging in certain activities or services. For example, obligations to do a certain number of appearances, or restrictions on entering into sponsorship arrangements.

Exclusivity – managers will typically require you to appoint them as their exclusive manager, meaning you are restricted from appointing anyone else to manage you. You should think about this, particularly if you are an international athlete and want to appoint someone else to represent you outside of Australia. An athlete may also not want the exclusivity to apply to all the services being provided by the manager.

Minors - if you are under the age of 18, then you can't enter into a contract, including a management agreement. Your parent or guardian may be required to sign the management agreement on your behalf, with you to confirm and sign the agreement once you turn 18.

Time - typically management agreements are for 1 - 3 years. Renewals or extensions can be negotiated at the end of the agreement. You should take care to ensure that any renewal is on terms favourable at that time, and does not indefinitely tie you to the manager or company. Avoid provisions which seek automatic (or rollover) extensions.

Tax deductible - You may be able to deduct management fees from your assessable income. This depends on whether your sporting activities constitute the "carrying on of a business", and this is likely to depend on your individual circumstances. Seek professional advice if you are unsure about this.

Some questions to ask a prospective manager:

1. How long have you been a manager, and how well do you know my sport?
2. Are you accredited to be a manager in my sport? If so, can you provide evidence of this accreditation?
3. Have you ever lost this accreditation, and, if so, why?
4. Do you represent other athletes, coaches or my sport as a whole? If so, how will you deal with any conflicts of interest if they arise?
5. How many other athletes are you managing, and how much time will you allocate to me?
6. Do you represent coaches or the sport as well as athletes? How do you deal with conflicts when they arise?
7. How do I pay you (e.g commission)? What services am I paying for?
8. What happens when we part company? Do you receive trailing commissions? How long for?

Where can I get further information and advice?

Contact the Athlete Wellbeing & Engagement Manager in your sport for further information.

The information in this guideline was produced by the AIS in conjunction with the sports law team at Hall & Wilcox Lawyers. It is not legal advice.