



ISLE OF MAN



Enforcement Strategy

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Version Control

Version	Date Published	Comments
1	June 2024	Initial version
2		
3		
4		

Important note: *This strategy sets out the approach of the Isle of Man Gambling Supervision Commission (the "GSC") to the exercise of the 'enforcement' powers available to it.*

1. The GSC's regulatory approach

- 1.1. The GSC is committed to ensuring that its approach to regulatory investigations and enforcement outcomes is fair, proportionate and demonstrably in fulfilment of the GSC's regulatory objectives¹.
- 1.2. The practices and processes adopted by the GSC are also intended to ensure that it has regard at all times to the person's Human Rights as well as the principles of Natural Justice.
- 1.3. It is important to note that the enforcement powers available to the GSC in any particular case, and the degree of proportionality it can apply in any regulatory response, will depend on the extent to which it is able to do so under the regulatory framework².
- 1.4. Holding any licence issued by the GSC imposes upon that licence holder a requirement and expectation that it seeks to achieve the highest standards of regulatory compliance, governance and risk management.
- 1.5. Parties who invest appropriately in governance, compliance and risk management etc. should not be disadvantaged by licensed operators who choose not to.
- 1.6. The Isle of Man is a well-regarded jurisdiction. The GSC, through its regulatory activities and enforcement action(s), will continually have regard to the need to maintain the good reputation of the Island.
- 1.7. The table below details other documents issued by the Isle of Man Gambling Supervision Commission that are associated and provide detail on this strategy. All documents can be found on our website.

Document name	Content(s)
Decision-Making Process – Enforcement and Sanctions ("DMP")	<ul style="list-style-type: none"> • The enforcement powers subject to the DMP • The administrative decision-making process to be followed by the GSC when considering the imposition of an enforcement power
Discretionary Civil Penalties – Guidance	<ul style="list-style-type: none"> • Criteria to be assessed by the GSC when considering the imposition of a penalty. • The level(s) of penalty that can be imposed • Availability of discounts
Settlement Policy	<ul style="list-style-type: none"> • When and in what circumstances the GSC will consider entering into settlement discussions with a subject.
Publication Policy	<ul style="list-style-type: none"> • When the GSC publishes enforcement outcomes • Notice and timing of any publication
Prohibition Policy	<ul style="list-style-type: none"> • When the GSC issues a prohibition

¹ As stated in section 5 of the Gambling Supervision Act 2010

² The "Regulatory Framework" comprises statute, regulations, codes, guidance or similar that are subject to oversight by the GSC.

Use of Appropriate Experts Policy	<ul style="list-style-type: none"> When the GSC issues a direction to an operator, requiring the appointment of an appropriate professional to remedy AML/CTF deficiencies
Referral to the GSC Enforcement Division	<ul style="list-style-type: none"> Factors relevant to a referral to the GSC Enforcement Investigation for further investigation
Making a Referral to the Police and/or the Attorney General	<ul style="list-style-type: none"> In what circumstances the GSC will consider referring actual, suspected or prima facie criminal offences (including contraventions of the AML/CFT Code³).

2. Overview

- 2.1 The GSC is a risk-based regulator whose objectives are set out in the Gambling Supervision Act 2010 (the "Act"), namely:
- 2.1.1 ensuring that gambling is conducted in a fair and open way;
 - 2.1.2 protecting children and other vulnerable persons from being harmed or exploited by gambling;
 - 2.1.3 preventing gambling from being (i) a source of crime or disorder, (ii) associated with crime or disorder, or (iii) used to support crime; and
 - 2.1.4 preventing the misuse of cannabinal, cannabinal derivatives, cannabis or cannabis resin.
- 2.2 The Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018 ("**2018 Act**") sets out that the GSC must regulate gambling with a view to securing compliance with AML/CFT legislation and this Act, and in doing so may conduct such investigations into alleged breaches as it considers necessary.
- 2.3 The GSC has regulatory duties assigned to it under various Acts (the "**Gambling Acts**⁴"). It is a competent authority in terms of overseeing compliance with the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019 (the "**Code**"), and it also oversees compliance with various associated regulations and guidance.
- 2.4 The Gambling Acts establish that providing facilities for gambling is illegal unless provided:
- 2.4.1 by a person who holds a licence issued by the GSC;
 - 2.4.2 in accordance with applicable exemptions; or
 - 2.4.3 in certain cases, under permits or other specific arrangements.
- 2.5 Each of the Gambling Acts, the Code and the legislation overseen by the GSC as the regulator for medicinal cannabis, set out various items of non-compliance that each separately constitute an offence.
- 2.6 The GSC issued a Guidance Note that sets out the approach the GSC will take if it identifies any actual or prima facie contraventions or offences.

³ Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019

⁴ This includes (a) the Gaming Amendment Act 1984, (b) the Casino Act 1986, (c) the Gaming, Betting and Lotteries Act 1988, (d) the Online Gambling Regulation Act 2001, (e) the Gambling (Amendment) Act 2006; and (f) the Gambling Supervision Act 2010.

3. Purpose of regulatory enforcement action

- 3.1 The regulatory outcomes the GSC seeks to achieve through enforcement action are:
- 3.1.1 credible deterrence of unacceptable behaviours by way of real and meaningful consequences so as to deter future contraventions, ensure appropriate standards of regulatory conduct and to protect consumers;
 - 3.1.2 control and ultimately, the removal of those firms and individuals that pose an unacceptable risk to the regulatory objectives;
 - 3.1.3 in relation to the promotion of public awareness and market confidence, the imposition of disciplinary measures that show regulatory standards are being upheld, which maintains market confidence;
 - 3.1.4 swift and effective protective measures to safeguard consumers and uphold the regulatory objectives; and
 - 3.1.5 prevention of financial gain or benefit from non-compliance. The imposition of timely and robust enforcement measures, including those in relation to financial crime, helps to promote and maintain the Isle of Man's reputation as a well regulated jurisdiction and a responsible member of the international community.
- 3.2 The GSC's approach to regulatory investigations is based on the following principles:
- 3.2.1 the GSC seeks to maintain an open and cooperative relationship with those it regulates, with a focus on proactive engagement with firms to mitigate risks and resolve problems;
 - 3.2.2 where non-compliance with the laws, codes and regulations it oversees are identified, it considers whether, taking into account all the circumstances of the case, engagement or firm-specific guidance may be more effective in raising a firm's standards than the formal imposition of a regulatory sanction;
 - 3.2.3 where operators demonstrate that they are unwilling or unable to comply with regulatory requirements, or where the degree of non-compliance is so material there is a presumption that the GSC will exercise its enforcement powers;
 - 3.2.4 the GSC focuses its enforcement action where the regulatory objectives are at risk;
 - 3.2.5 enforcement action is proportionate and responsive to the issue, recognising that:
 - 3.2.5.1 robust enforcement action with published outcomes deters poor behaviours and thereby improves standards in the industry;
 - 3.2.5.2 an agreed regulatory outcome by way of settlement may lead to a proportionate and swifter outcome than contested enforcement action;
 - 3.2.6 the GSC is committed to ensuring fair treatment in the exercise of its enforcement powers; and
 - 3.2.7 the GSC is committed to ensuring transparency in the way in which it carries out enforcement action. You can find out more information in the 'Decision-Making Process – Enforcement and Sanctions'.

4. What is an appropriate regulatory response?

- 4.1 The GSC's preferred approach with applicants and licensed operators is based on proactive and open engagement with firms to identify, manage and mitigate risks to ensure compliance with regulatory requirements. The effectiveness of this approach largely depends on there being an open and responsive two-way relationship between the GSC and those that it regulates.
- 4.2 As a risk-based regulator, the GSC prioritises its finite resources on the areas which pose the highest risk to its regulatory objectives. Where a firm or individual fails to comply with regulatory

requirements, the GSC considers carefully what course of action is a proportionate response for it to take.

- 4.3 Enforcement action is only one of a number of regulatory tools available to the GSC. Where an operator or individual demonstrates an acceptance and understanding of a failure to comply with regulatory requirements, and the breach does not pose a serious or persistent risk to its regulatory objectives, the GSC may decide that a matter can be appropriately resolved by way of a supervisory response.
- 4.4 The GSC may use any, or a combination of, the following:
 - 4.4.1 routine supervision – desk and on-site based engagement, focused on the review and monitoring of a firm’s compliance and viability, and firm-specific guidance to help firms meet required regulatory standards.
 - 4.4.2 enhanced supervision – frequent and intensive engagement focused on facilitating the GSC’s close monitoring and understanding of a firm’s compliance and viability where risks have been identified, and which may involve the imposition of regulatory measures such as additional reporting requirements or regulatory controls (e.g. directions, licence conditions etc).
 - 4.4.3 remedial action plans – formal agreed plans with firms to address non-compliance, identified control or operational weaknesses within defined parameters and agreed timescales.
 - 4.4.4 thematic work – the GSC may use a thematic exercise to better understand a particular risk that appears common across a sector or the industry as a whole. Themes are usually selected because there appears to be a particular risk that is a priority for the GSC to address.
 - 4.4.5 sector or industry guidance – issued in a variety of ways through general industry engagement, “Dear CEO” letters and newsletters or other publications, and focused on setting expectations and helping firms to self-identify deficiencies and any necessary actions.
 - 4.4.6 use of an appropriate expert – section 24 of the 2018 Act allows the GSC to require an operator to appoint or contract an expert to remedy compliance failings regarding any applicable AML/CFT legislation. The cost of such an appointment falls entirely upon the operator.
- 4.5 On every occasion the GSC will have full regard to a range of factors including past supervisory history, particular risks associated with a sector or firm as well as the extent of acceptance and co-operation displayed by the licensed operator and those representing it.

5. Case selection

- 5.1 The breadth of activities that the GSC regulates stems from individual slot machines to international gaming groups. The method of selection of regulatory investigation cases is primarily determined by reference to the circumstances of individual cases.
- 5.2 At a strategic level, the GSC also uses enforcement action to address priority areas. Our priorities at any given time will have a direct bearing on how regulatory investigation resources are allocated.
- 5.3 As stated above, the use of a thematic exercise tends to be where a particular priority risk is identified. Whilst thematic work is not initiated on the basis that it will result in enforcement action, it is more likely that non-compliance identified in a priority area of work will lead to enforcement action to deter wrongdoing in that priority area.
- 5.4 Although the GSC does seek to align its enforcement activities to its strategic priorities, it is not the case that we only take enforcement action in priority areas. Where breaches arise in non-priority areas which pose a risk to our regulatory objectives, we will consider whether enforcement action is necessary.

- 5.5 In instances of an operator's widespread non-compliance, the GSC considers the appropriate regulatory response by taking into account a range of factors including:
- 5.5.1 prior compliance of the operator;
 - 5.5.2 materiality of the identified non-compliance and risk of broader contagion;
 - 5.5.3 the risk to the reputation of the GSC and/or the Isle of Man;
 - 5.5.4 whether the operator or the GSC identified the non-compliance;
 - 5.5.5 the root causes of the non-compliance and, in particular, whether any were deliberate, reckless or complicit acts by the operator (including its officers, employees etc.);
 - 5.5.6 the success or otherwise of any associated remediation actions taken;
 - 5.5.7 whether the actions or inactions identified created an unacceptable risk of financial crime occurring;
 - 5.5.8 the time period over which the non-compliance existed;
 - 5.5.9 whether consumer detriment has occurred;
 - 5.5.10 whether the operator undertook activities that were 'high risk'; and/or
 - 5.5.11 the timeliness and impact of possible outcomes.
- 5.6 The combination of risk, priorities and resources in determining case selection means that enforcement action may be taken in some cases and not in others, even though the circumstances and nature appear to be similar. For example, in instances of widespread non-compliance by firms, it may be appropriate for the GSC to take targeted enforcement action against a small proportion of those firms to deliver a broader credible deterrent.
- 5.7 In making a decision whether to proceed with enforcement action, the GSC will satisfy itself that it has the proper grounds to do so; that enforcement action is likely to further the GSC's regulatory objectives; and that it is proportionate in all of the circumstances.
- 5.8 You can find more about how the GSC decides when it is appropriate to refer a matter for an investigation in its published Referral Policy.

6. Regulatory Investigation

- 6.1 An investigation will be initiated where the GSC has concerns about a firm or individual's failure to comply with regulatory requirements and the GSC considers it appropriate to investigate. In cases where the GSC already has evidence of non-compliance, it may conduct an investigation to establish the full extent of non-compliance together with the effect of that non-compliance. No operator can be licensed, or remain licensed, unless it satisfies the GSC that it is fit and proper.
- 6.2 The GSC has statutory powers that enable it to gather information for use in its regulatory investigations. Information may be gathered in a number of ways including on-site inspections; formal, recorded interviews; and statements from witnesses and third parties. Investigations are scoped from the outset and kept under regular review.
- 6.3 In cases where concurrent litigation – either criminal or civil proceedings – is ongoing, the GSC will consider carefully whether to pursue a regulatory investigation pending the outcome of the other proceedings. In determining this, it will balance the ongoing regulatory risks to consumers and/or the public interest against any risk of prejudice to either the regulatory investigation or the proceedings.
- 6.4 In some cases the GSC may be required to undertake enforcement action jointly with other regulators or authorities. For example, we may assist or take a proactive lead in a multi-jurisdictional investigation. In such cases we will clearly define the respective roles and endeavour to mitigate any potential prejudice or inconvenience arising from the joint investigation.

7. Firm or individual

- 7.1 The GSC will license, supervise and enforce based on the principle that it is the responsibility of the board and senior management of a firm to properly run its business and to operate in accordance with legal and regulatory requirements. Where such persons fail to exercise and operate appropriate management and internal controls, the GSC will consider taking enforcement action.
- 7.2 Where an individual is personally culpable for the non-compliance identified the GSC may decide to take enforcement action against that individual, including in relation to their fitness and propriety. A non-exhaustive list of factors which may lead to enforcement action against an individual include:
- 7.2.1 a lack of integrity (including acts of dishonesty);
 - 7.2.2 intentional, reckless, complicit or seriously incompetent behaviour;
 - 7.2.3 repeated or significant involvement in a firm's failure to comply with regulatory obligations;
 - 7.2.4 abuse of a position of trust;
 - 7.2.5 criminal convictions;
 - 7.2.6 being subject to enforcement action by another regulator;
 - 7.2.7 failure to ensure compliance with regulatory requirements, e.g. licence conditions, directions etc.;
 - 7.2.8 failure to ensure appropriate actions are implemented when e.g. non-compliance is identified and brought to their attention by another person;
 - 7.2.9 where self-interest, or conflict of interest, has been inappropriately managed and did, or could be perceived to have, impacted on decision-making and good regulatory conduct; and/or
 - 7.2.10 where actions or inactions identified brought about, in full or in part, a material risk of money laundering or terrorist financing occurring in the gambling sector.

8. Regulatory Settlement Agreements

- 8.1 We may wish to enter into discussions with a firm or individual subject to enforcement investigation in order to reach an agreed regulatory outcome in the public interest. The GSC has published its Settlement Policy.

9. Enforcement Outcomes

- 9.1 In determining what action to take in response to conduct appearing to be a breach, the GSC considers the full circumstances of each case. Examples of relevant factors include:
- 9.1.1 whether the GSC are directly required to do so by statute;
 - 9.1.2 the nature and seriousness of the suspected non-compliance;
 - 9.1.3 the impact of the non-compliance including upon customers and/or the reputation of the jurisdiction;
 - 9.1.4 the conduct of the firm or individual after the non-compliance, including what action has been taken to remedy the non-compliance;
 - 9.1.5 the regulatory history of the firm or individual;
 - 9.1.6 guidance issued by the GSC, or a similar regulatory or competent authority, relating to the behaviour in question and if so the extent to which the firm has sought to follow that guidance;
 - 9.1.7 the root cause and net effect of the non-compliance; and/or

9.1.8 action taken by the GSC in previous similar cases.

9.2 Where there has been non-compliance that leads to a regulatory outcome, either by way of contested enforcement action, formal sanction or settlement, the GSC will, unless there are exceptional circumstances, issue a public statement. The GSC has published its 'Publication Policy'.

10. Money Laundering ("ML") and/or Terrorist Financing ("TF")

- 10.1 All persons licensed by the GSC are required to comply with ML/TF legislation, including the Code.
- 10.2 The GSC routinely supervises compliance with the Code adopting a risk-based approach.
- 10.3 Each instance of non-compliance with the Code constitutes a contravention.
- 10.4 The Act permits the GSC to impose a civil penalty as an alternative to prosecution for contravention of the Code. The GSC has published Guidance on its use of Civil Penalties and on its policy for when it might seek to refer matters to the Police and/or the Attorney General's Chambers.
- 10.5 Preventing the gambling sector and the Isle of Man as a jurisdiction being exploited by persons who may wish to launder the proceeds of crime or finance terrorism is a key priority for the GSC. The GSC routinely works alongside other authorities internationally in seeking to fulfil this objective.

11. Intelligence sharing and co-operation

- 11.1 Intelligence exchange and regulatory cooperation is fundamental both to the GSC's work and to the integrity of the jurisdiction and the wider international financial system.
- 11.2 The GSC is committed to complying with the highest standards of best practice for regulatory co-operation. To achieve this, the GSC has in place:
 - 11.2.1 statutory gateways which enable it to communicate confidential information to other regulatory authorities in order to assist those authorities in the exercise of their functions;
 - 11.2.2 memorandum of Understanding with international regulatory bodies to facilitate the exchange of information and intelligence.
 - 11.2.3 regular liaison with local law enforcement, intelligence and judicial authorities to discuss strategic issues affecting the jurisdiction and its reputation.

12. Enforcement 'toolkit' (when proceeding in accordance with civil procedure/administrative law)

- 12.1 Notwithstanding this strategy, the decision by the GSC to commence a regulatory investigation is not, in and of itself, a decision that a sanction will be imposed on any particular party. A decision by the GSC to impose a regulatory sanction will only be implemented in accordance with the GSC's 'Decision-Making Process – Enforcement and Sanctions' where that sanction is subject to it.
- 12.2 Notwithstanding a firm being referred to the GSC's Enforcement Division that firm will typically, whilst any regulatory investigation is ongoing, remain a licence holder and therefore be subject to ongoing

regulatory obligations, reporting and compliance requirements. Where necessary a regulatory investigation will have full regard to information already in the GSC's possession including quarterly and annual returns.

12.3 In balancing the needs of this strategy and other associated documents the GSC will consider utilising a blend of the information gathering powers available to the GSC under legislation.

12.4 Examples of such information gathering powers (using the 2018 Act to demonstrate) include:

12.4.1 Section 10 Power to request information. The GSC can lawfully request information 'from anyone' that the GSC has reason to believe is in possession of it. Such request can only extend to seeking information about e.g.

12.4.1.1 Section 7 On-site inspection;

12.4.1.2 Section 18 Directions;

12.4.1.3 Section 12 Power to attend for interview or produce documentation; and

12.4.1.4 Section 13 Search warrants

12.5 Persons appointed by the GSC to have charge of any such regulatory investigation will continually balance the proportionality and timing of its information gathering to try and ensure that:

12.5.1 any investigation encompasses all of the material considerations;

12.5.2 it is completed as soon as reasonably possible; and

12.5.3 the impact on the party being investigated is reasonable and proportionate given all of the facts and circumstances.

12.6 Interviews

12.6.1 When exercising powers under e.g. section 12 of the 2018 Act, the GSC will audio record all interviews undertaken as part of that regulatory investigation.

12.6.2 Persons authorised by the GSC to undertake such interviews will be trained and experienced interviewers.

12.6.3 Persons being interviewed are compelled to answer the interviewer's questions. Not answering, or providing false or reckless answers to such questions can constitute an offence.

12.6.4 Persons being interviewed do not have the legal right not to answer the question to avoid self-incrimination. Any answers given to questions asked when the GSC is exercising these powers cannot be used against that person in any criminal proceedings.

12.6.5 Unlike in criminal proceedings (interviews under caution), the person being interviewed has no right to legal representation. Typically, the GSC will allow a person being interviewed to be accompanied but reserves the right to require that person to leave the interview if the authorised person undertaking the interview believes that the person accompanying the interview is impeding the conduct of the interview.

12.7 Production of information/documents

12.7.1 Section 12(2)(b) of the 2018 Act empowers the GSC to require "any person" to produce to the GSC, "(i) specified documents or copies of documents; or (ii) information of a specified class".

12.7.2 Any such requirement issued by the GSC will be via formal Notice accompanied by evidence of the authority issued by a Justice of the Peace and of the authority of the person exercising that power on behalf of the GSC.

12.7.3 Any such Notice issued will give details of the deadline for complying with that Notice. The deadline imposed will have due regard to the extent and complexity of the information/documentation required to be produced to the GSC.

This document is correct at the date of publication but is subject to change from time to time.