



ISLE OF MAN



## Referral to the GSC Enforcement Division

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# Version Control

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

# 1. Referral Policy

- 1.1. The Gambling Supervision Commission ("GSC") is committed to ensuring transparency in its regulatory investigations.
- 1.2. This policy sets out the factors that the GSC will use to determine whether a matter will be referred to the GSC's Enforcement Division for further investigation and/or enforcement action in accordance with its 'Decision-Making Process – Enforcement and Sanctions' ("DMP").
- 1.3. This policy should be read in conjunction with the GSC's enforcement strategy.
- 1.4. The table below details other documents issued by the GSC that are associated with this policy and can be found on our website.

Document name	Content(s)
Enforcement Strategy	<ul style="list-style-type: none"><li>• An overview of the GSC's strategy of its enforcement activities</li></ul>
Decision-Making Process – Enforcement and Sanctions ("DMP")	<ul style="list-style-type: none"><li>• The enforcement powers subject to the DMP</li><li>• The administrative decision-making process to be followed by the GSC when considering the imposition of an enforcement power</li></ul>
Discretionary Civil Penalties – Guidance	<ul style="list-style-type: none"><li>• Criteria to be assessed by the GSC when considering the imposition of a penalty.</li><li>• The level(s) of penalty that can be imposed</li><li>• Availability of discounts</li></ul>
Settlement Policy	<ul style="list-style-type: none"><li>• When and in what circumstances the GSC will consider entering into settlement discussions with a subject</li></ul>
Publication Policy	<ul style="list-style-type: none"><li>• When the GSC publishes enforcement outcomes</li><li>• Notice and timing of any publication</li></ul>
Prohibition Policy	<ul style="list-style-type: none"><li>• When the GSC issues a prohibition</li></ul>
Use of Appropriate Experts Policy	<ul style="list-style-type: none"><li>• When the GSC issues a direction to an operator, requiring the appointment of an appropriate professional to remedy AML/CTF deficiencies</li></ul>
Making a Referral to the Police and/or the Attorney General	<ul style="list-style-type: none"><li>• In what circumstances the GSC will consider referring actual, suspected or prima facie criminal offences (including contraventions of the AML/CFT Code<sup>1</sup>).</li></ul>

<sup>1</sup> Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019

## 2. Overview

- 2.1 Where a Division of the GSC believes that there has been, or has concerns that there may be a breach or contravention of regulatory or other legal requirements, or that there is a risk to the GSC's regulatory objectives, that Division along with the Enforcement Division will jointly consider whether a regulatory response is appropriate.
- 2.2 The GSC will consider this by reference to a range of key factors focused on the merits of the case, the seriousness and impact of the alleged or actual breach, the outcome that enforcement action would achieve and the overall proportionality.
- 2.3 The factors set out below are not intended to be exhaustive; not all of them will be relevant in a particular case, and there may be others that are relevant and will be taken into account. Any one or a combination of factors may lead the GSC to refer a matter to its Enforcement Division.
- 2.4 Where a matter is considered appropriate for further investigation and/or enforcement action, the matter is referred from that Division to the Enforcement Division. Such referral does not obviate the need for a firm subject to such referral to maintain ongoing regulatory reporting and compliance.

## 3. Factors to consider

In determining whether to refer a matter to Enforcement Division, the overarching question the GSC will consider is **whether enforcement action is necessary to discharge its statutory functions or likely to further its regulatory objectives**. In that context, the GSC will ask itself a number of questions including:

### 3.1 Is there a case to answer?

- 3.1.1. Is the GSC required by statute to take action;
- 3.1.2. If not required by statute to take action, what is the nature and seriousness of the suspected breach(es)/contravention(s);
- 3.1.3. Does the GSC have grounds to take action;
- 3.1.4. What is the strength of the evidence, what other evidence is or may be available;
- 3.1.5. What investigation is needed, is it proportionate to undertake an investigation; and
- 3.1.6. Has any action been taken by other regulators or law enforcement agencies?

### 3.2 What is the impact of the suspected non-compliance?

- 3.2.1 What risk does it present to the GSC's regulatory objectives;
- 3.2.2 Has there been any actual or is there potential consumer detriment;
- 3.2.3 Do the actions or inactions of the firm or individual undermine public confidence in and/or the reputation of the Isle of Man or the GSC as a regulator;
- 3.2.4 Is the public interest otherwise engaged;
- 3.2.5 What benefit has the firm or individual(s) derived, or might they derive, from the suspected non-compliance;
- 3.2.6 Is the suspected breach evidence of widespread non-compliance across a specific sector or the industry as a whole;
- 3.2.7 Is the suspected breach indicative of a systemic problem within the firm; and
- 3.2.8 Does the suspected non-compliance materially increase the risk of the operator being exploited for money laundering/terrorist financing purposes?

### 3.3 What would enforcement action achieve?

- 3.3.1 Is the suspected breach linked to a GSC's strategic objective or priority;
- 3.3.2 If not linked to a strategic objective or priority, does the suspected breach present a sufficiently serious risk to the GSC's regulatory objectives;
- 3.3.3 Is there an ongoing risk that warrants enforcement action;
- 3.3.4 Is action required to prevent a financial gain or benefit from the suspected wrongdoing; and
- 3.3.5 Would an enforcement outcome assist in deterring and changing the behaviour of others?

### 3.4 Is enforcement action proportionate in all of the circumstances?

- 3.4.1 What is the seriousness of the suspected non-compliance;
- 3.4.2 What was the response of the firm or individual to the suspected non-compliance, was the matter reported to the GSC by the firm or individual, what action has the firm or individual taken to remedy the non-compliance and/or prevent future occurrences;
- 3.4.3 What is the nature of the firm's relationship with the GSC;
- 3.4.4 What is the regulatory compliance record of the firm or individual;
- 3.4.5 Is the suspected non-compliance a repeat occurrence;
- 3.4.6 Is the suspected non-compliance part of a pattern of smaller issues, which individually may not justify disciplinary action, but which may do so when considered collectively; and
- 3.4.7 Is enforcement action a necessary response to the suspected breach, can it be dealt with by way of an alternative regulatory response?

*Notwithstanding this guidance, the actual imposition of any enforcement sanction, can only be imposed on a firm or individual subject to the process set out in the GSC's 'Decision-Making Process – Enforcement and Sanctions'. The referral of any particular matter to its Enforcement Division is not in or of itself a decision by the GSC to impose an enforcement sanction.*

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